

The background is a solid dark purple. On the left side, there is a vertical arc of white five-pointed stars, similar to the European Union flag. In the center, there is a large, light purple spiral that winds inward. The title 'Europeanization of Serbia' is centered over the spiral in a large, bold, black font.

Europeanization of Serbia

**Capacities of public authorities
and local (self)government authorities**

**Legislative Power
The President of the Republic
Executive Power
Local (self)government**

Jadranka Jelinčić (ed.)

FUND FOR AN OPEN SOCIETY

Monitoring

Europeanization of Serbia

**MONITORING OF THE PROCESS OF EUROPEANIZATION
OF SOCIAL, ECONOMIC, POLITICAL AND LEGAL SPACE OF SERBIA**

Fund for an Open Society
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INTRODUCTION

On January 1, 2006, Fund for an Open Society established the monitoring process of the Europeanization of the social, economic, political and legal space of Serbia. The monitoring process will last until December 31, 2008.

In this project the “Europeanization” process considers two aspects within the same process.

Firstly, this is the process of the incorporation of European values, standards and norms into domestic public policies, legal norms and conduct. In its second meaning the process of Europeanization presents the negotiation process in the aim of concluding agreements between Serbia and the European Union and member countries, whereby mutual relations will be formalized: starting with the conclusion of the Stabilization and Association Agreement, to Serbia’s full membership in the EU.

The Europeanization of the social, economic, political and legal space is the country’s *only* development option and is thus in the interest of all citizens. At the same time, the adoption and efficient implementation of European values, norms and standards is the expression of the responsibility of Serbia as a country which aspires to join the EU, in the same way as it is the responsibility of all current and future members of the European Union, for the successful achievement of the goals for which the Union was established in the first place.

Monitoring the process of Europeanization, that is – pro-European development policies, legislature and practice and their efficient implementation represent a “friendly” activity of the civil society directed towards the citizens of Serbia and its institutions. In this way the capacities of the civil society are employed to support the development of the country and citizens’ development interests in accordance with the principle of good governance and participative democracy.

The first publication of the report on the monitoring of the process of Europeanization which will successively be published during the period January – June 2007 will contain:

1. An ANALYSIS of the situation and policy in the fields which are of direct significance for the rapprochement of Serbia to the EU and an EVALUATION of the institutional capacities for the development and implementation of the pro-European policies and the efficient carrying out of other tasks which are entrusted to them;
2. RECOMMENDATIONS for the improvement of public policies, the legal system and institutional capacities;
3. A DESCRIPTION of the constitutional and legal position of those organs and bodies in charge of the reform process and Europeanization, and a presentation of the content and goal of the officially established policies in the monitored fields.

Each subsequent publication of the report will contain a periodical appraisal of the development in the monitored fields and an analysis of the reasons which impede the achievement of the declared goals of Europeanization.

If the key prerequisite for resuming negotiations on the Stabilization and Association Agreement (SAA) between Serbia and the European Union is fulfilled – the establishment of full cooperation with the Tribunal for war crimes perpetrated on the territory of the former Yugoslavia – the adoption of recommendations contained in this report could significantly contribute to speeding up negotiations between Serbia and the European Union on concluding the SAA and accelerating processes of the development of the country and its institutions.

The development goals and the evaluation of the situation which are presented in five documents represent the starting base for monitoring the process of “Europeanization” and the appraisal of its success:

1. The Constitution of the Republic of Serbia, which in article 1 defines Serbia as, among others, a state which is based on “affiliation to European principles and values”;
2. The Resolution of the National Assembly on the Accession of Serbia to the EU (October 2004),
3. The National Strategy of Serbia for the Accession to the EU adopted by the Government of the Republic of Serbia (June 2005),
4. The Feasibility Study for the opening of negotiations between the EU and Serbia on the SAA as drafted by the EU Commission and adopted by the Council of Ministers (April 2005), and
5. The Lisbon agenda for the development of the EU member states established by the EU Council of Ministers in 2000.

The findings and recommendations to be publicized in the monitoring reports will result from analyzing the existing practices and comparing them with the demands and statements contained in the mentioned documents.

This project was devised and is realized by the project team of the Fund for an Open Society: Jadranka JELINČIĆ, Ph.D., Head of the Team, Mihajlo COLAK, Srdjan DJUROVIC, Tamara LUKSIC-ORLANDIC, Miodrag MILOSAVLJEVIC, Jadranka STOJANOVIC and Tomislav ZIGMANOV. Other participants in the realization of the project are: Radmila MASLOVARIĆ, Sarita MATIJEVIĆ and Suzana JOVANIĆ.

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The Fund for an Open Society is grateful to all its partners for their contribution and commitment to the common goals.

GOALS of the process of monitoring Serbia's rapprochement to the EU

The main goals of this project are the following:

- ▶ to bring to the attention of the state, the competent state and provincial authorities, local (self)governments and the organizations exercising public powers:
 - the identified areas and fields in which it is necessary to implement adequate reforms, reasons for formulating them and the goals to be achieved by these reforms;
 - the inconsistencies and tendencies to stall the implementation of reform policies and legislative measures and the reasons for the inefficiency of reform policies or ignoring thereof;
 - the existence of legal voids and conflicting norms in the legal system and the norms in practice not harmonized with the European values and standards, and to suggest ways for removing barriers for an efficient implementation of the reform policies and legislation in the fields in which they have been adopted;
 - to recommend the adoption of new policies and laws, measures for their efficient implementation and measures for strengthening the capacities of the state and local (self)governments for performing their tasks.
- ▶ to employ the capacities and knowledge of the third sector and civil society for the purpose of formulating and implementing pro-European development policies and legislation which would build up the still rather limited capacities of the state to perform its duties related to the process of Europeanization in a comprehensive and timely manner;
- ▶ to develop the functional mechanisms of consultation with citizens and their associations (professional, trade and interest associations) in the formulation and implementation of pro-European public policies, thereby implementing one of the basic European principles – the principle of good governance;
- ▶ to clearly divide the responsibilities of each of the social sectors, especially of public officials for the successful and smooth pro-European development of the country;
- ▶ to strengthen the activities of the civil society which spread the understanding among citizens in Serbia that the process of Europeanization is a development concept which serves to improve their economic and social position and raise the level of their quality of life;
- ▶ to point out the closeness of values which are considered as European with those standards and values which are, in Serbia, considered as local and national;
- ▶ to promote the efforts made by the Serbian society and the state relative to the pro-European development of Serbia with the institutions of the European Union and the EU member states as well as within the European third sector and thereby ensure a balanced and unhindered process of association of Serbia to the EU.

Underlying FACTS AND HYPOTHESES of the project

► The pro-European development of Serbia and its joining the European Union is *the only* development opportunity for the country and its citizens and the most efficient guarantor of a stable democratic development, well-balanced economic progress and a guarantee of internal and external security of citizens and the state.

► The overwhelming majority of citizens (over 75%) are convinced that the approximation of Serbia to the EU is the desirable way forward in the development of the country because it can ensure the realization of their interests. Therefore, no responsible President of the Republic, the National Assembly or the Government, or any other elected or appointed authority or body can, for any reason, ignore this stance of the citizens.

► The state of Serbia has committed itself to pursuing pro-European development policies so that its bodies, primarily the National Assembly and the Government are responsible for their implementation.

► The National Assembly of Serbia adopted in April 2005 the Resolution on the Accession of Serbia to the European Union and thereby committed both itself and the Government to pursue policies that will facilitate the accession of the country to and its full membership in the EU.

► The Government of the Republic of Serbia and the European Integration Committee of the National Assembly adopted the National Strategy for the EU Accession, which thereby became a platform for pursuing public policies, including the legislation policy, in the first phase of establishing formal relations with the EU, as well as a platform for negotiating the Stabilization and Association Agreement with the EU.

► A large number of citizens and a better part of the civil society of Serbia, irrespective of their ideological orientation and the system of values, as well as all of its bodies – primarily the President of the Republic, the National Assembly and the Government – are fully aware of the fact that the progress in establishing formal relations between Serbia and the EU is linked with cumulative fulfillment of three groups of conditions.

Requirements and conditions for all countries aspiring to membership in the EU:

- acceptance and effective implementation of the principles of democratic governance, rule of law, good governance and market economy and, of course, harmonization of internal norms and standards with the *Acquis communautaire*;
- making active contributions to the Euro-Atlantic security, that is, membership in the NATO.

Requirements and conditions for the countries of former SFRY:

- full and permanent cooperation with the International Criminal Tribunal for the former Yugoslavia (ICTY);
- full normalization of relations with all countries of the Western Balkans.

Requirements and conditions related to Serbia

- constructive position in the negotiations on the status of Kosovo.

Meeting these requirements will at the same time be a precondition for establishing democracy in Serbia and will help its harmonious and stable development.

► Certain segments of society – primarily the very rich local businessmen who accumulated their wealth in the '90's owing to their privileged position in accessing financial capital markets and business operations controlled by the regime (trade in oil and other strategic products) or owing to the fact that they were part of the organized crime networks (trafficking in tobacco, armament, drugs, human beings) who have not as yet made their businesses legal (and do not intend to do so) and the centers of power that have not yet been put under the control of institutions (e.g. some parts of security services) are putting up strong resistance to the implementation of reforms and Europeanization of the society.

This is why strengthening of the integrity of institutions, their consistency in discharging duties and the implementation of efficient anti-monopoly policies and those for combating and prevention of corruption and organized crime are part of the process of creating conditions for the development of democracy, freedom of market economy and proportionate participation of citizens in the distribution of welfare stemming from the economic development. The process of Europeanization is directly contributing to the achievement of these goals.

THE SUBJECT of the monitoring

I. THE CAPACITIES OF PUBLIC AUTHORITIES¹ AND LOCAL (SELF) GOVERNING AUTHORITIES

A. LEGISLATIVE POWER (Parliament²)

B. THE PRESIDENT OF THE REPUBLIC

C. EXECUTIVE POWER

¹ To some extent, this report contains the results of monitoring the bodies of the former state union of Serbia and Montenegro (SCG) which was dissolved upon the holding of the referendum on independence in Montenegro on 21 May 2006. The reason for this lies in the fact that until the publishing of this Report the process of transferring powers from the state union bodies to those of the Republic of Serbia and the establishment of institutions of an independent state of Serbia in keeping with the principle of the rule of law has not been completed, in spite of the fact that the Constitution of the independent state of Serbia was enacted. On the basis of the findings of the Report, further course of this process will be monitored, especially the application of the principle of the rule of law. In the later stages of the monitoring of this process it will also be established whether the by-laws of the state of Serbia that will be passed within this process for the purpose of fulfilling legal vacuums created after the dissolution of SCG, contain all guarantees, principles and standards that have already been part of the Constitutional Charter of SCG and the Charter on Human and Minority Rights and Civil Freedoms (the so-called Small Charter) and of other documents of the state union. The European Union took part in the drafting of the Constitutional Charter and the "Small Charter" and was their guarantor which is why these documents enshrined European principles and standards. Because of that, the other legal and political documents thereof should not go below the level of principles and standards that have already been part of the legal and political system of Serbia.

² The term "parliament" is used here in its generic meaning to denote the Parliament of the state union of SCG, the National Assembly of Serbia and the Assembly of the Autonomous Province of Vojvodina.

1. The Government and the public administration
2. The reform of the public administration

D. LOCAL (SELF)GOVERNMENT

1. Centralization vs. decentralization
2. The position of local authorities in the process of EU accession
3. Standing Conference of Towns and Municipalities (SCTM)

Partners and associates: Fund for an Open Society, PALGO Center, Alternative Academic Educational Network, Center for Education Policy)

E. THE JUDICIARY

1. Independence of the judiciary
2. Judicial capacities (organizational-institutional, professional)
3. Access to Justice
4. Capacities of the judiciary for the direct application of ratified international agreements and conventions
5. Mechanisms for the implementation of decisions of international courts, arbitrations and other bodies
6. Judicial reform

Partners and associates: Fund for and Open Society, the Institute of Comparative Law

F. REGULATORY, CONTROL AND CORRECTIVE BODIES

("the fourth branch of power", external control of power or the rule of professions?)

1. Independence (election and financing), capacities, efficiency and working conditions
2. Position and the work of individual independent bodies
 - 2.1. *Bodies which are the foundation and guarantee of democratic order and traditionally independent bodies*
 - 2.1.1. The Constitutional Court
 - 2.1.2. The High Judicial Council
 - 2.1.3. The State Prosecutors' Council
 - 2.1.4. The Ombudsman
 - 2.1.5. The National Bank of Serbia
 - 2.2. *Bodies guaranteeing public integrity (external control)*
 - 2.2.1. The State Electoral Commission
 - 2.2.2 The Commissioner for Information of Public Importance
 - 2.2.3. The State Auditing Institution
 - 2.2.4. The Republic Committee for Resolving Conflicts of Interest
 - 2.2.5. The Commission for the Protection of Bidders Rights (and Public Procurement Office)
 - 2.3. *Regulatory bodies/agencies with delegated competences – "the rule of profession"*
 - 2.3.1. The Commission for the Protection of Competition
 - 2.3.2. The Securities Commission
 - 2.3.3. The Energy Agency
 - 2.3.4. The Telecommunications Agency

- 2.3.5. The Radio-Diffusion Agency
- 2.3.6. The National Council for Education
- 2.3.7. The National Council for Higher Education

Partners and associates: Fund for an Open Society, Center for Applied European Studies, Transparency Serbia, Belgrade Center for Human Rights, Institute for Comparative Law, Center for Advanced Economic Studies (CEVES), AAEN, Center for Education Policy

II. SOME POLICIES OF RELEVANCE FOR THE EU RAPPROCHEMENT PROCESS

A. DEMOCRATIC CIVIL CONTROL OF ARMY AND POLICE

Partners and associates: Center for Civil-Military Relations, Fund for an Open Society

B. POLICIES FOR CURBING AND PREVENTION OF ORGANIZED CRIME

Partners and associates: Fund for an Open Society and the Center for Applied European Studies

C. TRANSPARENCY, ANTI-CORRUPTION POLICIES AND ANTI-MONOPOLIES

Partners and associates: Fund for an Open Society, Center for Applied European Studies, Transparency Serbia, CEVES/FREN

D. PROTECTION OF INTELLECTUAL PROPERTY

Partners and associates: Fund for an Open Society

E. ENVIRONMENT

Partners and associates: Fund for an Open Society

F. EDUCATION

Partners and associates: AAEN, Center for Education Policy, Fund for an Open Society

III. HUMAN RIGHTS

Partners and associates: Belgrade Center for Human Rights, Group 484, Fund for an Open Society

IV. THE RIGHTS OF NATIONAL MINORITIES AND THE POSITION OF THE ROMA³

Partners and associates: Center for the Development of Civil Society, Fund for an Open Society, the League for the Decade of Roma

³ The Roma enjoy the status of a national minority in Serbia. However, the position of Roma has been particularly highlighted in this Report because Serbia is one of nine Central and Eastern European countries participants of the Decade of Roma Inclusion (2005–2015). Namely, on 5 February 2005 the Prime Minister signed on behalf of Serbia a Declaration on the Decade of Roma Inclusion (2005–2015) and the Government of the Republic of Serbia adopted action plans for the improvement of the position of Roma in the following fields: education, health care, employment and housing. In addition, the European Union is interested in helping through its support and pre-accession funds the prospective candidates to the EU as well as candidate countries to implement policies for the improvement of the position of Roma.

V. INFORMATION SOCIETY AND THE MEDIA

Partners and associates: Fund for an Open Society

VI. REGIONAL COOPERATION

Partners and associates: Fund for an Open Society

VII. EU POLICIES FOR THE WESTERN BALKANS

Partners and associates: Fund for an Open Society, Center for Applied European Studies

VIII. CIVIL SOCIETY

Partners and associates: Fund for an Open Society, Center for Applied European Studies

METHODOLOGY

1.1. Four documents will serve as the basis for the monitoring of the EU accession process of Serbia:

- the Resolution of the National Assembly on the Accession of Serbia to the EU (October 2004);
- the National Strategy for the EU Accession adopted by the Government of the Republic of Serbia (June 2005);
- Feasibility Study for the opening of negotiations on the SAA between the EU and Serbia as drafted by the EU Commission and adopted by the Council of Ministers (April 2005) and
- The Lisbon agenda for the development of the EU member countries established by the EU Council of Ministers in 2000.

The Resolution of the National Assembly on the Accession of Serbia to the EU is a document reflecting the commitment of the Serbian state to pursue pro-European development policies which will prepare and facilitate Serbia's accession to the European Union. This document obliges all state bodies to pursue policies that will support the achievement of development goals set out in the Resolution⁴.

The National Strategy for the EU accession is a document whereby the Government has committed itself to pursue policies that will facilitate the conclusion of the Stabilization and Association Agreement. This document also contains elements for the adoption of policies and measures of relevance for the process of Europeanization even after the conclusion of the Stabilization and Association Agreement⁵.

⁴ <http://www.parlament.sr.gov.yu/content/cir/akta/ostalaakta.asp>

⁵ <http://www.seio.sr.gov.yu>

The Feasibility Study defines the minimum requirements that Serbia has to fulfill in the first phase of establishing formal relations with the EU, that is, which it needs to fulfill in order for the SAA of Serbia with the EU to be concluded⁶.

The Lisbon agenda is a document applying to all EU member states. As Serbia will at the end of the EU accession process become a member of the European Union whose structure and development goals will be different from what they are today, it will be necessary for Serbia to pursue such policies that are aware of the EU development goals and policies in order to gather a harmonious pace of accession to the EU⁷.

1.2. The criteria for assessing the level of harmonization of the social, economic, political and legal domains of Serbia with the European standards and norms are the following:

- ▶ the European values:
 - peaceful settlement of disputes, constructive international cooperation and contribution to the European security;
 - existence and efficient functioning of democratically elected bodies;
 - respect of fundamental human rights and freedoms and the rights of ethnic communities
 - the principle of the rule of law;
 - the principle of good governance;
 - the principle of publicity, responsibility and public integrity;
 - a developed and active civil society and sustainability and autonomy of the civil society institutions.
- ▶ standards contained in Acquis communautaire (Community Heritage)
 - The EU Council of Ministers has established that the standards contained in this document represent unquestionable common values and standards shared by all EU member states to which all EU candidate countries have to aspire and comply with while their implementation will bring about the achievement of the EU development goals.

The criteria were divided into elements whose degree of achievement was evaluated on the basis of answers given to the set of questions posed by the EU Commission to the EU candidate countries.

1.3. The degree to which the social, economic, political and legal domains have been harmonized with the European values, standards and norms has been assessed based on the estimates to what extent the European values, norms and standards contained in the Community Heritage have been integrated in Serbia's public policies, legislature and practices. The assessment also included comparing these policies and practices with the same policies and practice in the EU candidate countries at the time when they were in the same phase of the EU accession process in which Serbia is today.

⁶ <http://www.seio.sr.gov.yu>

⁷ http://ec.europa.eu/growthandjobs/key/index_en.htm

**CAPACITIES OF PUBLIC AUTHORITIES
AND LOCAL (SELF)GOVERNMENT AUTHORITIES**

**Legislative Power
President of the Republic
Executive Power
Local (Self)Government**

1. Each section of this part of the Report (1) *considers and evaluates* the capacities of public authorities and local government authorities to:

- ▶ formulate and implement pro-European development policies;
- ▶ fulfill the obligations which arise or will arise from Serbia's EU integration process;
- ▶ participate in inter-European cooperation on inter-state and regional/local level.

The presented appraisals are followed by (2) *recommendations*, formulated on the basis of an analysis of the findings and research. They are, in turn, followed by (3) the description of the *constitutional and legal position* of those organs and bodies whose capacities were the subject of the monitoring.

2. The Constitution of the Republic of Serbia, proclaimed on 5 November 2006, adopts the principle of the division of power into legislative, executive and judicial and their relations are based on balance and mutual control. It is explicitly declared that judicial power is independent.⁸

The Constitution, in a slightly more developed form than the previous one, also recognizes the so-called fourth power. In accordance with that, the Constitution defines several branches and bodies which are guaranteed independence and autonomy: the Constitutional Court of Serbia (article 166), the Citizens' Ombudsman (article 138), the High Judicial Council (article 153), i.e. autonomy: the National Bank of Serbia (article 95), the State Auditing Institution (article 96), the State Prosecutors' Council (article 164). However, the Constitution did not provide guarantees, and thus did not open up the possibility for some other institutions which belong to the growing group of so-called independent or regulatory bodies to be provided with authentic independence in carrying out their competences established by the law (for instance the Commissioner for Information of Public Importance, the Commission for the Protection of Competition).

The President of the Republic, pursuant to the Constitution, represents the "state unity of the Republic of Serbia".⁹

⁸ The Constitution of the Republic of Serbia, Article 4, *Official Gazette of the Republic of Serbia*, no. 98/2006

⁹ The Constitution of the Republic of Serbia, Article 111

LEGISLATIVE POWER

The execution of legislative power

In the course of 1990's the National Parliament did not have frequent sessions. For instance, in 1996 it was in session for only 7 days. Already in 2001 it was in session for 95 days. In 2002 it had fewer sessions (over 78 days) due to the mandate crisis. In 2004 the Parliament worked 100 days, while in 2005 it held 26 sessions over 157 days, of which 13 regular sessions over 82 days and 13 extraordinary sessions over 75 days. The statistics show that the Serbian Parliament had much more frequent sessions than the regional countries in the early stages of transition. (By way of illustration, between 1993 and 1994 the Slovenian Parliament had 85 days of session per year).

The number of laws adopted by the Parliament grew proportionally to amount to the impressive figure of 205 acts, of which 120 were laws, in 2005. Many of them were a step forward towards harmonization with EU norms and standards, while some of them were essentially harmonized with EU requirements.

The fact that the National Parliament has no doubt worked intensively does not automatically mean that it was the initiator of legislative policies and initiatives nor does it mean that it set the pace of activities or that it entrusted executive power with the task to reform the legislation, whereby it would dictate the contents and pace of political processes within its competences.

The subordinate and submissive legislator¹⁰

The vast majority of bills were initiated by the Government. Even 4/5 of bills considered by the Parliament were initiated by the Government, while 9/10 of adopted laws originate from the bills initiated by the Government. The parliamentary committees, including the European Integration Committee, mainly did not propose laws, even though they are entitled to do so under the Constitution, and over 80% of bills initiated by the deputies were never included in the agenda of a parliamentary session.

The comparison of data from the regional countries referring to the first several years of transition shows astonishing differences. For instance, between 1990 and 1994 the Hungarian Parliament adopted 63% of the Government-initiated bills, but also 22% of bills initiated by deputies and 15% of bills submitted by parliamentary committees. In Serbia, on the other hand, between 2002 and 2004, 89% of adopted laws were submitted by the Government, only 9% by deputies and 0% by parliamentary committees.

Admittedly, this trend somewhat changed in 2005 (parliamentary committees proposed 23 acts, deputies 73, and the same trend is marked in the Parliament of the AP of Vojvodina), but it was already in the fifth year of transition. In Serbia the percentage of adopted laws proposed by deputies is extremely low (only 16 %). In the first years of transition that figure amounted to 28% in Hungary, 50% in Poland, 67% in the Czech Republic,

¹⁰ The qualification was deduced from the well-known standard of Ulrike Liebert: *"Parliaments in the Consideration of Democracy" in Parliament and Democratic Consolidation in Southern Europe*, eds. U. Liebert & M. Cotta, London, Pinter Publishers, 1990

whereas in Slovenia it rose to the impressive 76%. It can therefore be concluded beyond doubt that Serbia's National Parliament is positioned somewhere between the "subordinate" and "submissive" legislator.

The Parliament's failure to use its own legislative power in the transfer of powers from the dissolved state union to the Republic of Serbia is yet another proof that the above statement is true. The Parliament did not even alter the Law on Government upon the dissolution of Serbia and Montenegro (SCG). This is why even six months after the independent state of Serbia came into being, the Ministry of Internal Affairs and the Ministry of Defense are neither an integral part of the Serbian Government nor are they under the Parliament's control. The former Ministry for Human and Minority Rights was disbanded by the Government's Decree, and its functions and tasks (international legal aid, the readmission issue and the right to asylum) were ceded to particular republican ministries, again by decree. The competences concerning human rights were not ceded to any administrative authority, while the competences concerning national minorities were ceded to a body which, legally seen, has a rather vague position within the Serbian Government – the Council for National Minority Rights. The position of authorities entrusted with the issues of standardization, intellectual property, measures and precious metals, has not been defined in any way either.

The National Parliament did not, before the adoption of the Constitution, prepare or adjust itself to assume the competences of the SCG Parliament, the majority of which are related to the EU integration process, such as: the implementation of international law and of the conventions stipulating the obligation to cooperate with international tribunals; decisions concerning the membership of Serbia, as an international legal entity, in international organizations and those concerning the rights and obligations stemming from such membership; decisions on the issues of standardization, intellectual property and measures and precious metals; immigration, asylum and visa regime policies in accordance with EU standards.

Emergency procedure vs. quality

Most laws adopted by the National Parliament were considered and adopted through emergency procedure, without a good public debate or even a good debate in the Parliament itself. This was, among other things, the result of the most recent changes of the Parliament's Rules of Procedure, on the basis of which the quorum of 126 deputies was required only for the opening session and for the Voting Day. In 2001, 23% of emergency laws were proposed, in 2002, 40% and in 2003 this percentage rose to 56%. In 2004 and 2005 this percentage increased to over 80%.

This work overload in the Parliament reflects the degree of disorientation of the main initiator of "emergency" laws – the Government. Even after the democratic changes, the governments continued to treat the National Parliament primarily as a means of ensuring a legislative framework for their functioning. Whether the "ordered" legislation was reform-oriented, adapted to the requirements of the EU integration process and European standards, depended on each individual case, very often even on the resourcefulness of relevant ministries, expert engagement or the agility of civil society.

The laws adopted by the Parliament have often been of low quality or contrary to the European norms and standards (the perfect illustration of this is the Law on Religious Communities adopted by the Parliament and signed by the President of the Republic, despite many warnings that it was in contravention of European standards). Many laws were brought without a public debate or with an inadequate public debate. They were often justifiably criticized both by experts and the general public (good examples of this are the Law on Assisting the Families of the Persons Indicted by the Hague Tribunal, the Law on Higher Education, the Law on Deputies' Salaries, the Labour Law, the Law on the Securities Market and Other Financial Instruments and many others). Many laws adopted in this manner contain contradictions, as well as norms which are in contravention of other laws. Furthermore, they cannot be incorporated in the legal system, they disrupt its coherence or hamper its establishment, create legal vacuums and contribute to legal uncertainty and legal inequality. It is for these reasons that they are frequently inapplicable.

The Rules of Procedure of the National Parliament do not envisage any obligation or possibility to consult, within the law adoption process, the professional or general public or the stakeholders that are affected by the laws and whose position is regulated by them. This is so even in the case of system laws essentially reorganizing big social systems (the educational, health, banking or judicial systems), introducing new institutions (e.g. the Republic Committee for Settling the Conflict of Interest Cases, Ombudsman), or radically changing the rights, obligations or position of legal entities. Whether such consultations will take place at all depends on the chairmen of particular parliamentary bodies. This possibility has so far been used only exceptionally, as in the adoption of the Law on Free Access to Information and in reviewing the Bill on Non-governmental Organizations, and that only after the organized action of and pressure by civil society.

At a time of transition in which the adoption of reform-oriented policies and legislation should be accelerated, the balance between the urgent need to change the legislation on the one hand, and the quality of legal norms, the establishment of a coherent legal system and strengthening of legal certainty on the other, cannot and does not have to be achieved only through emergency procedures. There is a whole range of much more efficient methods: planning the legislative policy, coordinating legislative and executive power, strengthening professional skills of civil servants, entrusting particular tasks to expert organizations and institutions, etc.

Legislative power means more than voting for a draft law

It is easy to perceive the *lack of a legislative policy* in the work of the National Parliament. The laws which should enable reforms in specific fields, for example those aimed at reforming public administration under the Strategy of Public administration Reforms (adopted by the Parliament) are not passed simultaneously but one by one and at great intervals, whereby their efficiency and genuine contribution to reform policies is significantly reduced.

In most cases laws are brought *without necessary financial projections* or with completely arbitrary projections. This turned out to be a serious obstacle to the implementation of adopted laws. The Law on Courts envisaging

the alteration of the existing court system, i.e. the establishment of first-instance and appellate courts instead of the existing municipal and district courts, as well as the establishment of an Administrative Court, was passed in 2002. It is quite clear that the comprehensive implementation of this Law requires enormous financial means. This, however, did not prevent the proposer (a parliamentary group in this case) from proposing and the National Parliament from adopting it without any financial projections concerning its implementation. Furthermore, between 2002 and 2006, the National Parliament never raised the question of how much money it was necessary to implement the law nor did it establish, at its own initiative, the amount of the required financial means to be taken from the budget, which again is adopted by the Parliament. If the described practice continues, it will significantly impair projections concerning the use of EU-funded resources, precise earmarking of those resources, control of their spending and, at a later stage, assessment of the efficiency of that spending.

Draft laws very *rarely* contain any *analyses as to the effects of those acts*, particularly in view of Serbia's accession to the EU. In most cases laws point to possible effects only declaratively and vaguely. The analysis of impact assessment during the elaboration of laws, after their adoption and throughout their implementation, is also missing.

Implementation *control mechanisms* are either applied *selectively* or are not envisaged at all. As a result, the implementation of some laws (in whole or in part) did not start even several years after their adoption (the Law on Lustration, passed in 2003, the Law on the Administrative Court, passed in 2002, the Law on Courts, passed in 2002).

Cases of laws not being observed by the National Parliament itself are not rare. This is particularly reflected in the failure to comply with prescribed deadlines and, consequently, in great delays in appointing and constituting newly formed bodies (the National Educational Council, the Broadcasting Agency Council, the Commissioner for Access to Information of Public Importance, as well as the most recent case of missing the deadline for appointing the ombudsman – the protector of citizens).

The execution of constituent power

The absence of the democratic legitimacy of the Parliament

After the year 2000, the Parliament has not used its constituent power to remove constitutional obstacles to the faster reform of the legal, political and economic system. The political elite in Serbia, in contrast to other countries which have gone through the process of transition from authoritarian to democratic society¹¹, did not underline as its priority the adoption of a constitution which would define the society's new development goals and provide the basis for the fundamental reform of legal and political institutions. The Parliament was, at the same time, the hostage and the actor of such political processes and relations.

Finally, when the holders of political power decided to amend the Constitution in 2006, the process of the compilation of the new Constitution practically developed outside the Parliament. Namely, until the very end, all institutions competent for its preparation were excluded from the process of compiling the new Constitution, primarily the National Parliamentary Committee for Constitutional Issues. The draft of the Constitution Bill was literally taken into the National Parliament, which had, both the competent Committee and the plenum at the special session, a total of 4 hours to discuss and vote on it.¹²

In addition, it should be noted that the night before the Constitution was adopted, at the National Parliament's 8th extraordinary session, under emergency proceedings, the National Parliament's Rules of Procedure (it went into effect on the same day, straight after it was published) were changed. By this amendment, in spite of the explicit provisions of what was at that time the valid Constitution (from 1990, to which, until then, the holders of power blindly stuck for reasons of "legitimacy"), the **special session** was established as the form of the work of the Parliament, in order to provide legal cover for the planned "constitutional blow". Later, that session was also turned into a farce, because the Bill on the Constitution was delivered to the deputies two hours before voting. It is clear that there was absolutely no possibility of opening any kind of detailed debate on the proposed solutions so 242 national deputies voted for the Bill on the Constitution, and only two voted against it.

Indeed, it is clear from the process of the adoption of the Constitution that all citizens individually, and the entire professional and expert public local (self) government bodies, experts and non-governmental organizations, the business sector (particularly small and medium sized enterprises) and trade unions were excluded from the process of the adoption of the Constitution. Furthermore, their demands for the organization of public debate

¹¹ The comparative experiences of countries which have gone through democratic transition show that there is a sequence of steps which are usual in the disassembling of the old regime and the subsequent construction of democratic order. The beginning of each of those processes was marked by the adoption of a new constitution, which reforms the political institutions, establishes the system of the rule of law and guarantees the corpus of basic civil rights and freedoms. For more about this see Nenad Dimitrijević's text "Rodoljupci pišu ustav", Reč, Fabrika knjiga, Belgrade, 2006, pages .21–26.

¹² The Committee session started on 30 September at 5PM and ended at 6PM. The plenary session was scheduled for 8PM. There is no reliable information as to when this session really started and when it ended, but the media published that the new Constitution was adopted at the Parliament Session on 30th September. Out of 248 deputies, 242 voted for the adoption of the Draft on the Constitution.

on the Constitution Bill were not only ignored, but were also the subject of mockery on the part of the highest holders of power.

The participation of citizens in the process of the adoption of the Constitution might not have contributed to Serbia today having, in terms of its content, a more democratic, and legally-technically better constitution. However, the way the Constitution was adopted represents a great step backwards in the development of democracy in Serbia and it compromised, for some considerable time, the concept of democratic rule and participative democracy itself. The exceptionally low response of citizens to the referendum and the widespread doubt in its legality lend weight to this claim.

The establishment of public policies

In accordance with the Constitution, the National Parliament is the authority deciding on development policies by passing decisions and resolutions. Again, the Parliament exercises this competence selectively and mainly at the Government's initiative. The analyses of the policies adopted so far show that it is impossible to define a clear criterion under which the Parliament or the Government, as an authorized proposer, decides to establish development policies in specific fields. Thus, to date it has adopted the National Strategy for the Fight against Corruption (2006), the National Judicial Reform Strategy (2005), etc. It is interesting to note that the Poverty Reduction Strategy is the only document of its kind which the previous Government adopted (October 2003) and that the new Government has continued to implement.

As for pro-European trends, the National Parliament adopted the Resolution on Serbia's Accession to the European Union, the draft of which was elaborated by civil society. Under the Resolution, the National Parliament tasked the Government with drawing up a national strategy for accession to the EU and submitting it to the Parliament for adoption. The Government drew up the National Strategy and adopted it. However, it has never submitted it to the Parliament for consideration and adoption. It was only the European Integration Committee that considered it, while the Parliament, as a body, never called the Government to account nor did it raise the issue of carrying out the tasks defined by the Resolution.

Like in the legislative sphere, in establishing public policies the Parliament has never had public consultations or opened the possibility of public debates on the acts it considered or adopted. None of the adopted policies has been accompanied by the projection of financial resources required for their implementation, or by effect analysis or impact assessment concerning development in specific fields.

It has never happened so far that the National Parliament considered at its own initiative the implementation of public policies it defined.

The control of the Government and the public administration

The National Parliament can hardly receive a passing grade when it comes to the effectiveness of the mechanisms of Government and public administration control. It also fails to obtain substantial and timely information from the two bodies.

Rare questions, still without answers

It is bad enough that the number of **deputies' questions** is relatively small, but it is even worse that the number of replies from the Government and the competent ministries is astonishingly low (in 2005 the ratio of the questions posed to the replies received was 64 to 38). The number of deputies' questions has been dropping rapidly ever since 1993 when the deputies became more dependent on political parties (in principle, deputies from the ranks of ruling parties do not pose deputies' questions under the pretext that the Parliament needs to work faster, which is contrary to the logic of any parliamentary system and to the necessity to exert constant pressure on the Government and the public administration). Absurdly enough, even the opposition fails to shower the Government with deputies' questions, probably because it receives unsatisfactory replies or receives no replies at all.

Interpellation... what is that?

In the previous parliamentary convocation *interpellation* completely faded away, as has been the case since the previous Constitution was passed in 1990. The same applies to the institute of *a vote of confidence in the Government*. Even if a vote of confidence was by any chance asked for, it would be miraculously removed from the agenda by applying the Rules of Procedure.

The new Constitution made interpellation a constitutional category. In the previous period that was the institute regulated by the National Parliament Rules of Procedure. Interpellation, as a constitutional category, may contribute to the more dynamic work of the National Parliament, dialogue between the legislative and executive bodies and the much more transparent and more responsible work of the executive power.

It will be interesting to see whether, and when, the deputies will employ this new constitutional possibility, which becomes a rather powerful instrument in the control of the work of the Government and individual ministers. Namely, if the National Parliament does not accept the answer of the Government or Government member, it will take a vote of no confidence in the Government, or the Government member, if they do not previously resign by themselves. However, considering that the new Constitution encourages the elected deputies in the Parliament, straight after taking up their positions, to place their mandates "at the disposal" of their political parties¹³,

¹³ See article 102, paragraph 2 of the Constitution of the RS

the conduct of the members of Parliament will, now more than ever, depend on the agreements made between political parties outside the Parliament than on any feeling of responsibility or the possibility that each member of Parliament may launch the issue of the parliamentary control over the Government's work. In addition, the new Constitution tightens the conditions for a vote of no confidence in the Government or Government member. The number of deputies required to submit a proposal for a vote of no confidence has been tripled, from the former 20 to 60, which is almost one fourth of the total number of deputies. The deadline after which the Parliament is obliged to take a vote of confidence has also been extended from three, as regulated by the former Constitution, to five days. The solution according to which the proposal for a new vote of confidence, if the first one is not voted in, may not be launched within the following 180 days also contributes to the further weakening of the controlling function of Parliament over the executive power. Such a norm did not exist in the legal system to date.

Regular annual reports are sufficient for the Parliament

The National Parliament can exercise control, among other things, through *boards of inquiry* and through *considering the reports of executive and administrative authorities*. But...

It is indicative that, in spite of the numerous affairs regarding the apparent involvement of senior officials and deputies from the state administration in business matters with elements of corruption, in 2005 only two *boards of inquiry* were set up: the Board of Inquiry for the Privatization of the "Knjaz Milos" Enterprise from Arandjelovac and the Board of Inquiry for Establishing the Truth about Newly Born Babies from Maternity Wards of Several Serbian Towns. Many corruption affairs revealed even by some ministers of the present Government, affairs in which names of other Government ministers were mentioned and the affair concerning the alleged purchase of deputy mandates and deputy resignations dated in advance, in which the criminal act of forgery and misuse of official position is implicated, were not good enough reasons for the Parliament to set up boards of inquiry.

So far there have been no cases of executive power or state authority bodies failing to submit the regular annual reports on their work to the Parliament. All reports were regularly adopted without many questions or debate. It is also symptomatic that the Parliament adopted the 2005 report on the work of the police and the Security and Information Agency without any discussion or a single deputies' question. It should not be forgotten that at this time there were heated debates in the country and abroad about the reasons for which Serbia had not met the requirements for arresting the persons indicted for war crimes, sought by the Hague Tribunal for years.

In addition to the still undefined position of the Ministry of Defense, even though as far back as June 2006 the Parliament obliged the Government to prepare the appropriate amendments to the Law on the Government, it is clear that the National Parliament, in spite of Serbia being accepted into the Partnership for Peace, does not have the capacities to fulfill the standards of the democratic control over the armed forces and the police.

The National Parliament's representative quality

The representative quality of the Parliament can be assessed by numerous criteria concerning the representation and advocacy of interests of the widest range of social strata and groups. Under conditions when political parties do not have clear political programs, and when they consider the “dedication to change” as the most democratic expression of their political conduct, without any explanation of which resources and in which ways they intend to implement those changes, and when those changes will result in certain effects, the question of representative quality has multi significance for the authority and stability of institutions. The absence of representative quality permits the decision-making power to move away from, or never move into institutions, allows the development of suspicious and unclear and unknown arrangements and personal deals made outside institutions, impedes the establishment of the integrity of institutions and thus weakens the citizens' trust in institutions, and favors the development of corruption in a legal and ethic sense. In the context of monitoring the Europeanization process at this moment, it is important to review the Parliament's composition from the aspect of the election of members of Parliament; the number of female deputies and from the aspect of the representation of national minorities.

As regards the method of the election of deputies, mention should be made of the Venice Commission and OCSE's clear recommendations to ensure, through amendments to the Law on the Election of Deputies, that the mandates of elected representatives belong to them and not to the political parties on whose candidate lists they were elected.¹⁴

Clear positions regarding this issue are contained in the Strategy for the Fight against Corruption. One of the recommendations insists on “introducing the element of the personalization of the election of deputies into the electoral system”.¹⁵

However, the new Constitution introduces the practice of tying mandates into the legal sphere. Despite the assumption that deputies have free will of which they cannot be deprived, the second paragraph of Article 102 of the Constitution allows the deputy, under conditions regulated by the law, to unalterably place his mandate at the disposal of the political party at whose proposal he was elected deputy. It is likely to expect that in the forthcoming period this will become common practice which undermines the nucleus of internal party democracy in Serbia. Thus, the framer of the Constitution ignored at the same time not only the recommendations of international organizations (the Venice Commission, ODIHR), but also the strategic document of the state's highest legislative body (the Strategy for the Fight against Corruption).

¹⁴ Joint recommendation on the Laws on Parliamentary, Presidential and Local Elections and Electoral Administration in the Republic of Serbia, by Venice Commission and OSCE/ODIHR, Adopted by the Venice Commission at its 66th Plenary Session, Venice, 17–18 March 2006, page 13

¹⁵ National Strategy for the Fight against the Corruption, 2nd Chapter: Systems and fields, 1. Political system, page 7, Seventh Session of the Second Regular Session of the National Parliament in 2005, held on 8 December 2005.

THE RATIO OF MALE TO FEMALE DEPUTIES IN THE NATIONAL PARLIAMENT BY PARTIES

No.	Political parties	Number of deputies	Number of men	%	Number of women	%
1	SRS—Serbian Radical Party	81	77	95,06%	4	4,94%
2	DSS—Democratic Party of Serbia	52	46	88,46%	6	11,54%
3	DS—Democratic Party	32	27	84,38%	5	15,63%
4	G 17 PLUS	31	21	67,74%	10	32,26%
5	SPS—Socialist Party of Serbia	22	21	95,45%	1	4,55%
6	SPO—Serbian Renewal Movement	12	10	83,33%	2	16,67%
7	NS—New Serbia	9	9	100,00%	0	0,00%
8	SDP—Social Democratic Party	3	2	66,67%	1	33,33%
9	GSS—Civil Alliance of Serbia	2	1	50,00%	1	50,00%
10	SLS—Serbian Liberal Party	1	1	100,00%	0	0,00%
11	SLPS—Social Liberal Party of Sandžak	1	1	100,00%	0	0,00%
12	BDSS—Bosniac Democratic Party of Sandžak	1	1	100,00%	0	0,00%
13	SDU—Social Democratic Union	1	1	100,00%	0	0,00%
14	Not belonging to any party	2	2	100,00%	0	0,00%
	TOTAL	250	220	88,00%	30	12,0%

The new Constitution establishes that the equal representation of the sexes and representatives of national minorities is insured in the National Parliament in accordance with the law.

So far, the Constitution and the laws do not envisage any mechanism to ensure the representation of national minorities and their interests in the National Parliament. Only those minorities which have “their own” political parties can hope to be represented in the Parliament as groups with special interests, and only if they pass the electoral census. At this moment there are five minorities organized in political parties based on the ethnic principle (Albanians 2, Hungarians 3, Bosniacs 2, Croats 1 and Romanies 1 or 2). Because of the high census (5%) none of the minorities had their representatives in the National Parliament convocation which lasted from 2003 until 2006. The amendments to the Law on the Election of Deputies (the last amendment was in 2005)¹⁶ reduced the electoral census for national minority parties. The election of national minority representatives to the new Parliament may contribute to the resolving of at least a certain number of issues which refer to the position of national minorities being transferred to institutions and to stop them being the subject of out-institutional, sometimes personal agreements.

¹⁶ Article 81 of the Law; *Official Gazette of the Republic of Serbia*, no. 35/2000, 57/2003 – decision USRS, 72/2003 – other law, 75/2003 – amendment to the other law, 18/2004, 101/2005 – other law and 85/2005 – other law)

Two laws which could regulate gender equality– the Law on Gender Equality and the Law on the National Parliament – have not been adopted. After the 2000 elections, women's non-governmental organizations and interest groups requested at least 30% of seats for female deputies. The present composition shows, however, that there are 30 women out of 250 deputies, or 12%. There is a larger number of women on the candidate lists for the elections which will take place in January 2007, but which of them will get seats in the Parliament at the beginning and during its mandate, remains to be seen.

The consistent inadequacy of parliamentary debate

The dignity of parliaments in transitional countries is of paramount importance for establishing legitimate institutions and ensuring stable democratic development. A great matter of concern in the National Parliament's work is the continued inadequacy of parliamentary debates, which over a long period of time has an adverse effect on the dignity, and, consequently, the authority of the Parliament. The deputies often exchange sharp and shameful words, resort to offences and disqualifications of all kinds. Even numerous amendments to the Parliament's Rules of Procedure did not put an end to this practice. Which is worse, there have been cases of falsifying the votes and deputies being deprived of their mandates (the contradictions of the proportional electoral system, making the deputy dependent on the political party or coalition in question, as well as the Constitutional Court's recent decision under which the term of office of a deputy is defined as free and independent) – the reason why a part of the opposition has been boycotting parliament sessions for months.

The Rules of Procedure virtually reduced the deputy to being a representative of his/her parliamentary group or political party, instead being a representative of the interests of his/hers voters. This position of the deputy encourages the behavior which reminds of a permanent election campaign in front of TV cameras rather than efforts to define specific policies and laws and the representation of citizens' interests.

The phenomenon of the alleged "trade of the mandates" and application of different rules depending on whether the mandates of the ruling parties are in question or those of the opposition (prevention of leaving the party in cases of deputies of the ruling party by means of taking their mandates through activating resignations signed in advance, and insisting on free mandate in cases of opposition party deputies) surely does not represent a democratic parliamentary practice.

The lack of willingness to investigate and sanction the cases of alleged corruption on the one hand, and the need to "discipline" party members in order to impede all attempts at the democratization of relations in political parties on the other, lead to the situation where the new Constitution, as was already mentioned, gave legitimacy to tying mandates.

The alarming situation as regards the dignity and integrity of the Parliament, resulting from disobedience of elementary norms and public communications ethics and public service, as well as the latest constitutional solution on the real owner of the deputy mandate, points out to the need to establish a body in the Parliament itself (a committee or commission) which would permanently deal with establishing and implementation of standards in public life, similar to solutions applied in other parliamentary democracies.

Support Services

The number of employees, expert skills and the method of organizing the support services in the National Parliament show that this is a potentially weak link in carrying out the state bodies' authorities in the process of Serbia's accession to the EU. In the Serbian Parliament 250 deputies are served by only 205 employees from the Support Service. Comparative experiences tell a different story, thus in Italy there are three employees per deputy, in Finland 433 employees serve 200 deputies and in Scotland there are even 433 employees to 130 deputies. In Slovenia, even 370 employees serve 90 deputies.¹⁷ Their low level of knowledge regarding tasks connected to the process of Europeanization is even a greater problem, which becomes even more evident when one takes into consideration the fact that the majority of political parties do not have either experts or members who can deal in a serious way with the issues of Europeanization and the accession of Serbia to the EU.

From the aspect of EU integration, it is important to mention that the Parliament, assisted by international organizations, has finally established an Office for the harmonization of domestic regulations with European legislature (April 2006). The fact that those employees are paid from foreign aid funds, and not from the budget, says a great deal about the Parliament's relations toward such experts. However, it is obvious even at this point that five employees in the Office are not sufficient to efficiently discharge all duties. In addition, the allocation of jobs connected with the approach to the EU to separate organizational units, their payment from foreign aid funds and their salaries which are, because of that, higher than those of employees in similar positions in the Parliament and state administration support service, can only lead to the further mystification of jobs connected with the process of the approach to the EU, intolerance towards those jobs (and employees) and the alienation of others from the Europeanization process.

In the preparations of negotiations on the Stabilization and Association Agreement, numerous international donors assisted in developing the potentials of civil servants to efficiently discharge their duties related to Serbia's EU integration process. It is worth noticing that the Parliament's employees were rarely included in any training or professional advancement programs.

¹⁷ The information was acquired on the basis of a questionnaire sent by e-mail to the competent person in the Slovenian Parliament, Mr. Dušan Benko, at Dusan.Benko@dz-rs.si

RECOMMENDATIONS

In order to fully exercise its function as the framer of the Constitution, the legislator and controller of executive power, the public administration and independent bodies and thus contribute in an efficient way to the process of Europeanization, the National Parliament should critically consider its organization, working method, the effects of its contribution on the processes of reform and development and its responsibility for their achievement.

1. In fulfilling its competences the National Parliament should *in the first year of its mandate*:

► As the framer of the Constitution:

Immediately upon its establishment:

The Committee for Constitutional Issues should start the critical reading of the recently adopted Constitution. On that basis the National Parliament should propose amendments to the Constitution in at least **six** fields: amendments to the existing and the introduction of new (forgotten or deliberately omitted) provisions which will in an unambiguous way guarantee the independence of the judiciary; the adoption of a general clause which facilitates the establishment of other independent bodies in addition to those which are explicitly determined in the Constitution and thus contribute to the strengthening of the external control of power; the acceptance of the supremacy of international-legal norms over national law and, especially, ensure guarantees for the future direct applicability of EU legal norms; eliminate the constitutional cover for the so-called tied deputy mandate; harmonize the constitutional provisions which refer to the prevention of conflicts of interest and incompatibility of positions; amend all provisions which refer to the guarantee and respect of human rights which are under the standards of the until recently valid Charter on Basic Human and Minority Rights and Civil Freedoms in SCG.

In this way it will contribute to the harmonization of constitutional norms with European values and standards, and even with the constitutional tradition of Serbia while it was a member of the complex state union.

► As the legislator and controller over the work of the executive power

Immediately upon its establishment:

- Demand from the Government an analysis of the implementation of the Poverty Reduction Strategy, the Strategy on the Fight against Corruption and the National Strategy for Accession to the European Union, to undertake within the framework of its competence measures for their efficient implementation and prescribe the executive power the implementation of the same measures.
- Provide, through its working bodies, the systematic control of Bills (screening) from three aspects: if the bills consist of norms which facilitate systematic corruption; if the bills limit or violate human and minority rights; if the Bills are in accordance with European norms and standards.

- Carry out its obligations regarding the implementation of the Strategy for the Fight against Corruption, i.e. establish standards for the evaluation of the Government's success in the fight against corruption; adopt the integrity plan and enact the deputies' code of conduct.
- Appoint the Ombudsman and the president, vice president and members of the State Auditing Institution Council.

During its mandate:

- Adopt laws which can be implemented, i.e. laws which consist of non-contradictory, precise and clear norms; contribute to the coherency of the legal system, legal security and legal equality, for whose going into effect reasonable deadlines (*vacatio legis*) are predicted and for whose implementation appropriate resources and precise sources of financing are predicted.
- Limit and prevent the further proliferation of emergency legislative procedures by planning its legislative policy, encouraging joint legal initiatives by deputies and improving the coordination of the work of the National Parliament and the Government.
- Actively carry out its controlling function over the implementation of laws and established policies, use all mechanisms of parliamentary control (deputies' questions, interpellation, enquiry committees) and insist on the achievement of the principle of responsibility in its work, including adequate decision making regarding deputy immunity, and the work of the organs through which it carries out the control or supervision.

In this way it will carry out its role in the achievement of the principle of the rule of law and responsibility and contribute to the strengthening of the integrity of public institutions.

► As the national representative

Immediately upon its establishment:

- The National Parliament should, in accordance with the Law on the National Parliament and the Rules of Procedure, predict the obligatory consultation proceeding with interested parties (experts, local (self) government, interest groups, professional associations, unions, business associations, nongovernmental organizations) in the process of adopting laws and the obligatory period of public debate for so-called systematic laws.
- It is the duty of the National Parliament, left by the previous convocation, to change the electoral legislation and implement the demands from the new Constitution:

- to ensure the greater personalization of the deputy mandates (in accordance with the demands from the Venice Commission Recommendations and the Strategy for the Fight against Corruption) and establish the principle on which the candidates from the lists of candidates will be elected members of the Parliament and who will replace them in those positions in the case of the termination of their mandate before the end of the National Parliament's mandate.
- to ensure, pursuant to the new Constitution¹⁸, gender equality in its structure and predict the mechanisms for representing the interests of national minorities in the National Parliament.

This will increase the representational quality of the national representative, reduce the practice of non-transparent outside-institutional arrangements and thus increase the legitimacy of the decisions made by the National Parliament, strengthen its authority in the public, and the power will gradually be transferred from the informal centers of power to the institutions of the system; and finally, this will create the conditions for the achievement of the principle of good governance, responsibility and publicity in work and ensure the conditions for the citizens' control over the work of the Parliament.

► As the holder of public authorities:

- Practice shows that the National Parliament, the same as all other holders of public authority, has to work seriously on the improvement of its integrity, dignity, quality and the expertise of its work. In regard to that:
 - The National Parliament should oblige the Mandatory - Immunity Committee to develop and implement standards and ethics in carrying out the deputy function, and this Committee should, in the aim of strengthening the dignity of the Parliament and its members, interpret the norms on deputy immunity in a restrictive way;
 - The Secretary General should consistently ensure the further professionalization of the support service;
 - It is the task of the Secretary General to establish a program for the permanent development of its professional and expert capacities, and the National Parliament should provide resources for achieving this task.
- Political parties should work on the improvement of the professional capacities of their deputies, particularly of their officials in the Parliament, and insist on their more dignified conduct. Political parties should not contribute to the decline of the legitimacy of the Parliament.
- These recommendations *mutatis mutandis*, also refer to the Assembly of the Autonomous Province of Vojvodina.

¹⁸ Article 100, paragraph 2

The National Parliament of the Republic of Serbia: election, deputies' position, competences and organization, professional capacities

Structure. The National Parliament is unicameral and consists of 250 deputies, elected by the proportional presentation system in direct elections by a secret ballot. Deputies are elected for a 4 year mandate unless the National Parliament makes a decision on the extension of the mandate in cases of the immediate threat of war or state of war and during the period those circumstances remain in place.

The Constitution establishes that the equal representation of the sexes and representatives of national minorities will be ensured in the Parliament in accordance with the Law.

The new Constitution has extended the circle of functions which are incompatible with the deputy mandate. The deputy may not at the same time be a deputy in the assembly of the autonomous province, an official in the bodies of executive power and the judiciary nor may he carry out other functions, jobs and duties which the law establishes as a conflict of interest.

Deputy status. The new Constitution increases the material immunity (the immunity of non-accountability) of the deputy. According to the previous Constitution the deputy could not be called on for criminal responsibility, detained or sentenced for any expressed opinion or vote in the National Parliament. According to the new Constitution, the exemption from criminal-legal responsibility, but also from other responsibility (civil-legal), is predicted not only for an expressed opinion or vote in the National Parliament but in general for any expressed opinion while carrying out the deputy duty. At the basis of this provision lies the assumption that the deputy also carries out his function outside the National Parliament, for instance during communication with voters. Deputies also enjoy special procedural immunity (immunity of inviolability): they cannot be detained without the approval of the National Parliament unless in circumstances where they were apprehended committing a criminal act for which a prison sentence of longer than five years is regulated. No criminal charges or other charges which may result in a prison sentence can be brought against a deputy who has invoked immunity without the Parliament's approval. The Parliament may also decide to uphold the immunity of a deputy who has not invoked it in order to ensure the undisturbed performance of the deputy's post.

Officials. The National Parliament elects the chairperson and one or several vice chairpersons from the deputies for a period of four years. The chairperson represents the National Parliament, convenes National Parliament sessions, presides over its sessions, schedules elections for deputies and the President of the Republic.

Vice chairpersons assist the chairperson in carrying out the duties within his competence, and come from the lines which reflect the political cross section of the Parliament. The chairperson manages the functioning of the Parliament and the harmonization of the work of its working bodies.

Pursuant to the new Constitution, if the National Parliament is not able to convene, the chairperson of the National Parliament together with the President of the Republic and the Prime Minister makes the decision on the declaration of the state of war or state of emergency.

Support Service. The Secretary of the National Parliament assists the chairperson and vice chairpersons in preparing and leading sessions, manages the Parliamentary Department, monitors the implementation of the Parliament's decisions and performs other duties. The secretary is accountable to the National Parliament. He has a deputy, appointed at the proposal of the Administrative Committee, who assists him in his work and replaces him in his absence.

Parliamentary committees. Standing committees (which may have sub-committees) as well as boards of inquiry and commissions are organized for the debate and consideration of issues within the National Parliament's competence, the proposal of by-laws and the review of the implementation of policies and regulations by the Government.

The standing committees are: 1. The Constitutional Issues Committee; 2. The Legislative Committee; 3. The Committee on Defense and Security; 4. The Foreign Affairs Committee; 5. The Justice and Administration Committee; 6. The Committee on Inter-Ethnic Relations; 7. The Committee on Relations with Serbs Living Outside Serbia; 8. The Committee on Development and International Economic Relations; 9. The Finance Committee; 10. The Industry Committee; 11. The Committee on Transportation and Communications; 12. The Committee on Urban Planning and Construction; 13. The Agriculture Committee; 14. The Committee on Trade and Tourism; 15. The Privatization Committee; 16. The Committee on Kosovo and Metohija; 17. The Committee on Health and the Family; 18. The Committee on Environmental Protection; 19. The Education Committee; 20. The Youth and Sports Committee; 21. The Culture and Information Committee; 22. The Committee on Science and Technological Development; 23. The Committee on Labour, Ex-Servicemen and Social Issues; 24. The Committee on Petitions and Proposals; 25. The Economic Reforms Committee; 26. The European Integration Committee; 27. The Poverty Reduction Committee; 28. The Gender Equality Committee; 29. The Local Self-Government Committee; 30. The Administrative Committee.

The competences of the majority of standing committees are of direct importance for the process of stabilization and association, and finally accession to the EU.

The Constitutional Issues Committee considers the principal issues of the Constitution, as well as proposals for amendments to the Constitution of the Republic of Serbia and the Vojvodina Statute.

The Legislative Committee considers proposals for laws and other regulations and their compliance with the legal system, the Constitutional Court's reports and opinions of importance for the Constitution and laws, and the development of the legal system, as well as proposals and initiatives for initiating procedures to assess whether the laws and other regulations adopted by the National Parliament comply with the Constitution.

The Committee on Defense and Security exercises control over security services and considers the reports issued by the Ministry of Internal Affairs.

The Foreign Affairs Committee considers proposals for laws and other regulations in the field of foreign policy and international relations, and offers its opinion to the National Parliament on whether the National Parliament should grant its consent for the conclusion of international treaties.

The Justice and Administration Committee considers proposals for laws and other regulations in the field of the organization and proceedings of the judicial authorities, the actions taken by such authorities, the enforcement of sentences, international legal aid, the organization and work of the administrative bodies and the performance of public duties, the organization of the authorities, the electoral system, and the association of citizens into bodies, and issues an opinion on the appointment or dismissal of presiding judges of courts, judges, public prosecutors, and of other judicial and administrative officials.

The Committee on Inter-Ethnic Relations considers proposals for laws and other regulations from the point of view of the exercise of the rights of ethnic communities and inter-ethnic relations.

The Committee on Development and International Economic Relations considers economic development plans and programs, financial and banking systems, foreign economic relations, chambers of commerce, public utility systems, commodity reserves, the health care system and developments in the fields of health care, social security, ex-servicemen and disability insurance, social care for children and youth, education, culture and the protection of cultural heritage, policy and measures for directing and promoting development, including the development of underdeveloped regions and issues of commodity reserves.

The Finance Committee considers proposals for laws and other regulations in the fields of financing state functions, taxes, fees, the Republic budget and annual balance, loans, guarantees, insurance, property rights and obligatory relations.

The Industry Committee considers proposals for laws and other regulations in the field of industry, with the exception of the food industry, and the development and production of all forms of energy, as well as in the fields of mining, geological, and seismological research.

The Committee on Transportation and Communications considers proposals for laws and other regulations in the field of road transportation, railway transportation, transportation by inland waterways and maritime transportation, air transportation, postal traffic, and telecommunications.

The Agriculture Committee considers proposals for laws and other regulations in the field of agriculture, forestry, the food industry, water management, veterinary medicine, agricultural co-operatives and rural development.

The Committee on Trade and Tourism considers proposals for laws and other regulations in the field of trade, catering and tourism, craft and other services.

The Privatization Committee considers proposals for laws and other regulations in the field of privatization, as well as the Ministry of Privatization's reports on the state of the initiated privatization proceedings and signed sales contracts for capital and property.

The Committee on Environmental Protection considers proposals for laws and other regulations in the field of environmental protection and the improvement, sustainable use, prevention and elimination of the pollution of natural resources, as well as other types and sources of threats to the environment in the fields of forestry, hunting, fishing, and climate.

The Education Committee considers proposals for laws and other regulations in the field of pre-school, elementary and secondary education as well as college and university education.

The Culture and Information Committee considers proposals for laws and other regulations in the field of culture and public information.

The Committee on Science and Technological Development considers proposals for laws and other regulations in the field of science and research, scientific development and the application of research achievements at universities and research institutes and the economy and the development of new technologies and their application.

The Economic Reforms Committee considers plans and programs for economic development as well as proposals for laws and other regulations in the field of the economic system and economic policy (this Committee will consist of the members of the Legislative Committee, the Committee on Development and International Economic Co-operation, the Finance Committee, the Industry Committee, the Committee on Transportation and Communication, the Committee on Urban Planning and Construction, the Agriculture Committee, the Committee on Trade and Tourism, the Privatization Committee, the Environmental Protection Committee, the Committee on Science and Technological Development, and the Committee on Labor, Ex-Servicemen and Social Issues).

The European Integration Committee considers proposals for laws and other regulations from the point of view of their degree of harmonization with European Union and Council of Europe legislation as well as plans, programs, reports and information regarding the process of stabilization and accession to the European Union, monitors the implementation of the accession strategy, initiates proposals for accelerating the implementation of the accession strategy, proposes measures for establishing general national consensus on the strategy of accession, and fosters international co-operation with the parliamentary committees of other countries.

The Gender Equality Committee considers proposals for laws and other regulations from the point of view of ensuring gender equality and monitors the implementation of policies from the viewpoint of respecting gender equality.

The Local Self-Government Committee considers proposals for laws and other regulations which relate to the territorial organization of the Republic of Serbia and the organization, election, competence, financing and operation method of local self-government units.

The Administrative Committee prepares and considers regulations governing status-related issues of deputies (verification or termination of mandate, application or denial of immunity) ensures the appropriate use of parliamentary property, adopts the official documents of the Parliament and the Parliament's Support Service, monitors the implementation of the Rules of Procedure in the Parliament and stores and handles those materials considered to be state, official or military secrets etc.

Boards of inquiry and commissions will be set up to carry out special tasks in order to review the situation of and establish facts about certain issues or events. A board of inquiry may not carry out investigative or other judicial activities but will be entitled to request data, documents and information from government bodies. Upon completion of its work, the board of inquiry will submit a report for adoption to the National Parliament detailing the proposed measures to be taken.

Assumptions for the legislative policy

Sittings. The Parliament is obliged to hold two regular annual sittings: the first regular sitting starts on the first working day in March, and the second on the first working day in October. A regular sitting may not last more than 90 days. The Parliament may meet for extraordinary sittings at the request of at least one third of the total number of deputies or at the request of the Government, and with an agenda established in advance. It meets without prior request in cases where a state of emergency has been declared on part of the territory of Serbia. The institute of the special session was introduced by the emergency amendment to the National Parliament Rules of Procedure before the adoption of the new Constitution.

Competence. The Competence of the Parliament is comprehensive and directly relevant to the legislative framework of the process of accession to the EU. Pursuant to the new Constitution, the National Parliament has the following competences, some of which are new considering the fact that in the meantime Serbia has become an independent country:¹⁹

1. enacts and decides on amendments to the Constitution;
2. decides about changes to the borders of the Republic of Serbia;
3. schedules the republic referendum;
4. ratifies international treaties when the law predicts the obligation of their ratification
5. decides on war and peace and declares the state of war and state of emergency
6. controls the work of the security services;
7. passes laws and other general acts which are within the competences of the Republic of Serbia;
8. issues prior concord on the statute of the autonomous province;
9. adopts the defense strategy;
10. adopts development plan and zoning plans;
11. adopts the budget and the end-of-year balance of the Republic of Serbia;
12. grants amnesty for criminal acts

¹⁹ Those are primarily competences which consider the establishment of borders, decisions on war and peace, defence.

The National Parliament, within the framework of its electoral rights:

1. elects the Government, controls its work and decides on the termination of the Government's and Ministers' mandates;
2. elects and dismisses the judges of the Constitutional Court;
3. elects the President of the Supreme Cassation Court, the presiding judges of courts, the Republic public prosecutor, public prosecutors, judges and deputy public prosecutors in accordance with the Constitution;
4. elects and dismisses the Central Bank governor and controls his/her work;
5. elects and dismisses the Ombudsman and controls his/her work;
6. elects a certain number of members of the High Judiciary Council;
7. elects and dismisses other officials as determined by the law (it is not clear why the Constitution does not explicitly entrust to the Parliament the election of the State Auditing Institution bodies, over whose work it carries out supervision as predicted by the Law on the State Auditing Institution).

The National Parliament also carries out other duties established by the Constitution and law.

As regards the obligation to schedule a Republic referendum, according to the previous Constitution the National Parliament was obliged to decide on any request for the scheduling of a Republic referendum submitted by at least 100,000 citizens. According to the new Constitution, in addition to 100,000 voters, the request for scheduling the referendum may be also submitted by the majority of all deputies. At the same time the Constitution establishes that the subject of the referendum may not be obligations which originate from international agreements, laws which refer to human and national minority rights and freedoms, tax and other financial laws, the budget and the end-of-year balance, the introduction of the state of emergency and amnesties as well as those issues which refer to the competences of the National Parliament.

Decision making. The Parliament decides by a majority of votes at a sitting at which a majority of the total number of deputies are present.

The National Parliament decides by the majority of votes of all deputies (qualified majority) when: deciding on granting amnesty for criminal acts; declaring and revoking the state of emergency; prescribing measures for the withdrawal of human and minority rights in the state of war or state of emergency; adopting the law by which the Republic of Serbia entrusts to the autonomous provinces and units of local self-government certain issues from its competence; issuing prior concord on the statute of the autonomous province, deciding on the Rules of Procedure; revoking the immunity of its deputies, the President of the Republic, members of the Government and the Ombudsman; adopting the budget and end-of year balance, electing the members of the Government and deciding on the termination of the mandate of the Government and ministers; deciding on the response to interpellation; electing judges of the Constitutional Court and deciding on their dismissal and the termination of their mandates; electing the President of the Supreme Cassation Court, preceding judges, the Republic public prosecutor and public prosecutors and deciding on termination of their functions; electing judges and deputy public prosecutors pursuant to the Constitution; electing and dismissing the governor of the National Bank of Serbia, the Council of Governors and the Ombudsman; carrying out other electoral competences.

The National Parliament also decides by the majority of votes of all deputies on laws which regulate: referendums and national initiatives; the fulfillment of the individual and collective rights of national minorities; the development plan and zone plan; public borrowing; the territory of autonomous provinces and units of local self-government; the signing and ratification of international contracts as well as other issues determined by the Constitution.

Legislative procedures. As was the case so far, the Government, every deputy and the Assembly of the Autonomous Province of Vojvodina have the right to propose laws, other regulations and general acts but at least 30,000 citizens have to support a national initiative and not 15,000 citizens as was the case in the previous Constitution from 1990. The right to propose a law from its competence is also given to the National Bank and the Ombudsman. The authorized entity submits a proposal in the form of the law, with a rationale which must contain a Constitutional basis and grounds in EU legislature, the reasons for the adoption of the law, explanations of the legal institutions and solutions and financial projections.

Regular legislative procedure. The bill may be included in the agenda of a Parliamentary sitting within not less than 15 days and not more than 60 days from the date of its submission. The deadline may be extended in exceptional cases, but by not more than 30 days, and all deadlines are held in abeyance when the Parliament is not in regular sitting. The bill is firstly considered by the competent committees, and by the Government, if the Government is not the proposer, and their reports must be forwarded no later than 5 days prior to the date of the plenary session. If those reports are not forwarded, the bill will be considered without them.

The debate in principle is the first to be held, and then, after at least 24 hours have elapsed, the debate in particular. In the meantime, the competent committees may submit amendments to the bill. The total debate time for each Deputy Group will be a maximum of 15 minutes per amendment, and 3 minutes for a maximum of 3 deputies who are not members of a Deputy Group (selected by mutual agreement, according to the order in which they requested the floor). The proposer of the bill is entitled to withdraw the proposal from procedure at any time before the debate has been concluded. The Parliament debates bills at Voting Day sittings, firstly in principle, then in particular, followed by amendments, and finally by voting on the bill in its entirety. If the Parliament is to adopt several amendments, it may suspend the adoption of a bill, and request that the Legislative Committee carry out the legal and technical editing of the text of the bill i.e. request that the competent body harmonize the adopted amendments with each other and with the text of the bill. Any eventual lack of harmonization will be eliminated by the submission of a special amendment by the competent Legislative Committee for that purpose.

Emergency procedure. The proposer may propose emergency procedure only for the adoption of a law governing issues and relations resulting from unforeseeable circumstances which could have an adverse effect on human life and health, which must be explained in written form.

A bill may be put on the agenda of a sitting if submitted 24 hours prior the scheduled time of the sitting, or 2 hours in the case of bills from the sphere of defence and security. If the Government is the proposer, the bill can be submitted at the sitting itself if at least 126 deputies participate in it. The Parliament will decide, without debate, when establishing the agenda or in the course of the sitting, immediately upon receipt of the bill (on condition that the sitting is attended by at least 126 deputies) on bills to be adopted under emergency procedure. Once it has agreed to discuss the bill under emergency procedure, the Parliament establishes a deadline for the competent committees to submit their reports as well as a deadline for the Government to provide its opinion (if it is not the proposer). If the competent committees fail to submit their reports, or if the Government fails to submit its opinion, the law will be debated without said reports and/or opinions. An amendment to a bill being debated under emergency procedure may be submitted no later than the commencement of debate on the bill. The proposer of a bill, the competent committees, and the Government are entitled to put forward their views on the amendments.

Control of the Government's work. The control of the Government's work is achieved through deputies' questions, interpellation, the inspection of Government reports and a vote of no confidence in the Government. The new Serbian

Constitution introduces interpellation as a constitutional mechanism. The method of its implementation is for the time being regulated by the National Parliament Rules of Procedure.

Deputies' questions. All deputies are entitled to pose a parliamentary question to a particular minister or to the Government as a whole. Deputies' questions are posed either in writing or verbally; however, any statement by the deputy asking the questions may not last more than three minutes. Deputies' questions must be clearly worded. Deputies' questions are, as a rule, posed after the Parliament has dealt with all items on the agenda. However, the Parliament may also, without debate, determine another time for posing deputies' questions. At the proposal of the parliamentary group, the chairperson determines the day in the month when certain ministers will reply to deputies' questions regarding current issues. The ministers reply immediately to a verbally posed question, also verbally. If certain preparation is required for issuing the answer that has to be stated immediately, and the answer should be delivered to the deputy within no later than 8, i.e. 30 days (if the question calls for a complex analysis).

After the reply has been given, the deputy who has asked the question is entitled to make a comment lasting up to five minutes on the reply to his question or to ask a supplementary question. When he has obtained a reply to his supplementary question, the deputy is entitled to comment on the reply, which may not take longer than five minutes.

Interpellation. The Constitution has taken over a certain number of basic characteristics of the institute of interpellation from the National Parliament Rules of Procedure. Therefore, the Constitution predicts that at least 50 deputies may submit the interpellation of a certain issue with regard to the work of the Government or Ministries. The Government is obliged to respond to the interpellation within 30 days. The National Parliament debates and votes on the reply which the Government or the member of the Government to whom the interpellation was directed, submitted. By voting for the acceptance of the reply the National Parliament continues to work according to the adopted agenda.

If by voting the National Parliament does not accept the reply given by the Government or Government member, the Parliament will take a vote of no confidence in the Government or Government member if the Prime Minister, i.e. the member of the Government does not previously resign after the reply to the interpellation was not accepted. The issue which was the subject of the interpellation may not be debated again until the deadline of 90 days has expired.

The Rules of Procedure establish that no more than five interpellations may be submitted at one session. An interpellation is submitted in writing, and must contain a clearly worded and summarized question and rationale no more than two typed pages in length. The interpellation is submitted to the Chairperson of the Parliament, who then forwards it to the Administrative Committee for assessing compliance with the provisions set out in the Rules of Procedure. If non-compliance is established and is not eliminated within 15 days, the interpellation will be considered withdrawn. If compliance is established, the Chairperson of the Parliament will forward the interpellation to the deputies and the Prime Minister. The Chairperson of the Parliament may propose that the interpellation be discussed as the last item on the agenda of an ongoing Parliamentary sitting, and the Parliament will vote on such a proposal without debate. The Parliament may also decide to debate the interpellation at an extraordinary sitting of the Parliament. The proposer of the interpellation is entitled to explain the interpellation and the Prime Minister or the minister to whom the interpellation refers is obliged to respond. The sitting is conducted according to the same procedure for debates on bills. A debate about an interpellation may end in an opinion being adopted regarding the matter raised in the interpellation, or in a vote to move on to the next item on the agenda. A submitted interpellation may be withdrawn at any time before voting on it has commenced. An interpellation regarding the same issue may not be submitted again during the same sitting of the Parliament.

Consideration of Government reports. The Government will inform the Parliament about its activities, and, in particular, about the implementation of policies, the enforcement of laws and other regulations, the implementation of development plans, and the implementation of the Republic's budget. The Government will submit reports to the Parliament on its own initiative, and at least once a year. The Parliament may decide, at the proposal of a committee, without debate, to request a report from the Government on a particular field. The Parliament may decide, at the proposal of the committee reviewing the Government report, to also have the report considered at a sitting of the Parliament.

Motion of no confidence. According to the new Constitution a minimum of 60 deputies may submit a motion of no confidence in the Government or a minister. The motion will be submitted in writing to the Chairperson of the Parliament specifying the reason why the motion for a vote of no confidence has been proposed. The motion will be immediately forwarded to the Prime Minister or Government Minister, and to the deputies. A sitting of the Parliament to consider a motion of no confidence in the Government or a minister will not be held prior to the expiry of a 5 days deadline and no later than 15 days after the date when the motion of no confidence was submitted. The proposer is entitled to explain the motion of no confidence in the Government, while the Prime Minister, or Government Minister, is entitled to respond. The sitting is conducted according to the same procedure for debates on bills. On completion of the debate, the Chairperson of the Parliament will convene a Voting Day session.

The National Parliament accepts the proposal for a vote of no confidence in the Government or Government member if more than one half of all deputies vote for it.

If the National Parliament votes no confidence in the Government, the President of the Republic is obliged to set in motion the proceeding for the election of the new Government. If the National Parliament does not elect the new Government within 30 days since it took a vote of no confidence, the President of the Republic is obliged to dismiss the National Parliament and schedule elections.

If the National Parliament votes no confidence in a Government member, the Prime Minister is obliged to set in motion the proceeding for the election of the new member of the Government in accordance with the law.

If the vote of no confidence is not upheld, a new proposal for a motion of no confidence in the Government or a Government member may not be proposed again before the expiry of a 180 day deadline.

The Assembly of the Autonomous Province of Vojvodina²⁰: election, deputies' position, competences, organization and professional capacities

Article 10 of the Constitutional Law establishes that, until the day of the new statute of the autonomous province going into effect, the provincial bodies and services carry on their work in accordance with the provisions of the current statute²¹ and decisions and financing of the assembly of the autonomous province will be carried out pursuant to article 184, paragraph 4 of the Constitution. In accordance with the Constitutional Law, the newly elected Assembly of the Autonomous Province of Vojvodina will be obliged to submit the proposal on the new statute of the Autonomous Province of Vojvodina before its adoption for the National Parliament's consent within 90 days of the day the Assembly is constituted.

The bodies and services of the Autonomous Province of Vojvodina also take over the competences predicted by the Constitution when the new statute and the laws which regulate issues of provincial importance go into effect.

In accordance with the Constitutional Law the elections for deputies for the Assembly of the Autonomous Province of Vojvodina will be scheduled by the Chairperson of the National Parliament, by 31 December 2007, i.e. within 60 days of the law which regulates the territorial organization of the Republic of Serbia going into effect.

The following summary was compiled on the basis of the current Rules of Procedure of the Assembly of the Autonomous Province of Vojvodina.²²

Structure. The Assembly consists of 120 deputies. The citizens of every municipality from the territory of the Autonomous Province of Vojvodina elect at least one deputy. Deputies are elected through direct elections by a secret ballot for a four year mandate. The Assembly may make a decision on the extension of the mandate in cases of the immediate threat of war or state of war until the conditions for the election of new deputies are established.

Deputy status. Deputies have the right, in the Assembly, to use the language and alphabet whose official use is established by the Statute. Deputies may not be called into account for any expressed opinion or vote in the Assembly.

Officials. The Assembly has a chairperson and one or more vice chairpersons, elected from the line of deputies for a period of four years. The chairperson represents the Assembly, presides over Assembly sittings and performs other duties pursuant to the Assembly's Statute and Rules of Procedure. The Assembly's vice chairpersons assist the chairperson in carrying out the tasks within their competence, replace the chairperson in his absence and carry out other duties pursuant to the Assembly's Rules of Procedure.

The Legal Council of the Assembly is an expert-counseling body, which examines and considers legal issues of interest to the province's bodies. The Legal Council has a president and eight members. The president of the Legal Council and its six members are appointed by the Assembly, from the ranks of scholars and experts in the field of law, while the president of the Regulations Committee and the head of the province's body responsible for administration and regulations are members of the Legal Council through their posts. The members of the Legal Council are appointed for a period of four years. Requests for the Legal Council's consideration of certain issues may be submitted by the Assembly's working body, the Assembly Chairperson, the President of the Executive Council and the head of the province's administrative body.

²⁰ The analysis is adapted to the role of the Assembly of the Autonomous Province of Vojvodina in the accession process to the EU, i.e. aspects of exclusive importance to that process.

²¹ *Official Gazette of AP Vojvodina*, no. 17/91

²² *Official Gazette of AP Vojvodina*, no. 23/2002 and 30/2004.

Deputy Groups are entitled through their president to submit proposals for the inclusion of certain issues in the agenda of Assembly and committee sittings, to issue opinions and suggestions on proposals for decisions, bylaws and other regulations during the process of their consideration, to submit amendments and to carry out other duties established by the Rules of Procedure.

Parliamentary Committees. Committees are set up as standing working bodies for the consideration and debate of issues within the Assembly's competence, for the proposal of acts, the monitoring of the situation in certain fields and carrying out other duties. Committees consist of the president and 10 members, may establish sub-committees, and a deputy may be a member of a maximum of three committees. Deputies who are members of the province's Government may not be committee members.

The standing committees are: 1. The Committee Issues of the Constitutional and Legal Status of the Province; 2. The Committee on Cooperation with the Committees of the National Assembly in Exercising the Competences of the Province; 3. The Legislation Committee; 4. The Economy Committee; 5. The Agriculture Committee; 6. The City Planning, Regional Planning and Environmental Protection Committee; 7. The Budget and Finance Committee; 8. The Education, Science, Culture, Youth and Sport Committee; 9. The Health Care, Social Policy and Labor Committee; 10. The Committee on Demographic Policy and Social Childcare; 11. The Information Committee; 12. The Committee on Interethnic Relations; 13. The Committee on Proposals and Representations; 14. The Committee on Administrative Structure and Local Self-Government; 15. The Committee on Administrative and Mandate-Immunity Issues 16. The Committee on Establishing the Equal Authenticity of Provincial Legislation in Languages in Official Use; 17. The Security Committee; 18. The Privatization Committee; 19. The Committee on European Integrations and International Regional Cooperation 20. The Gender Equality Committee.

The competence and work of several Committees of the Assembly of the Autonomous Province of Vojvodina are important in the process of Serbia's accession to the EU:

The Committee on Issues of the Constitutional and Legal Status of the Province considers issues of exercising the constitutional status of the Province, proposals for amendments to the Statute of the Autonomous Province of Vojvodina, principal issues of Statute implementation, proposes that the Assembly be the proposer of laws and amendments to bills adopted by the National Parliament related to exercising the constitutional and legal status of the Province and also nominates the president and members of the Legal Council.

The Committee on Cooperation with Committees of the National Parliament in Exercising the Competences of the Province monitors, cooperates and promotes activities related to the adoption of laws regulating relations of interest to the Province. The Committee consolidates the proposals of competent Assembly Committees for the adoption of or amendments to republican laws and cooperates with the competent committees of the National Parliament.

The Committee on Legislation considers drafts decisions, other regulations and by-laws as regards their compliance with the Statute and legal system, as well as the drafts of other regulations and by-laws submitted by the Assembly to the National Parliament for adoption.

The Committee on Interethnic Relations considers drafts of decisions and by-laws, as well as other issues related to maintaining interethnic relations and rights to education, culture, and information to which members of nations and national minorities in the Province are entitled, and other issues pertaining to interethnic relations.

The Committee on European Integrations and International Regional Cooperation considers the exercise of the rights and responsibilities of the Province in planning and establishing international cooperation of the Republic of Serbia and pursuant to the law considers the planning, establishment and maintenance of economic relations with foreign countries, participates in regional cooperation with international regional organizations, participates in border cooperation

with neighboring countries, defines the duties of Assembly delegations in maintaining international cooperation with appropriate representative bodies and considers reports on the visits made.

The Assembly may establish *boards of inquiry* from the ranks of deputies to establish facts about certain issues or events. A board of inquiry may not carry out investigative or other judicial activities. Upon completion of its work, the board of inquiry will submit a report to the Assembly detailing the proposed measures to be taken. The inquiry board ends its work on the day of the adoption of the report at the Assembly sitting.

Prerequisites for the legislative policy

Sittings. The Assembly is convoked by the Assembly Chairperson on its own initiative or at the proposal of the Executive Council of the Autonomous Province of Vojvodina or of at least one fifth of the deputies. The Assembly meets according to need and at least twice a year. The Assembly reaches decisions by a majority of votes at a sitting at which the majority of the total number of deputies are present unless the Statute predicts a special majority.

The Assembly's Competence. The Assembly of Vojvodina, among other things: adopts the Statute and decides on amendments to the Statute; decides whether decisions and bylaws are in accordance with the Statute; adopts regulations for the enforcement of laws and other regulations and by-laws of the Republic of Serbia, the enforcement of which is delegated to the Assembly; proposes laws, other regulations and other by-laws which are to be adopted by the National Parliament; schedules referendums in the Province.

The Procedure for the establishment of bills adopted by the National Parliament. The Executive Council, deputies, competent committees and Deputy Groups may submit the proposal that the Assembly of the Autonomous Province of Vojvodina be the proposer of republican bills to be adopted in the National Parliament, with the text of the bills. The text for the bill is submitted in the form of the law, with an accompanying rationale.

On the acceptance of the proposal that the Assembly of the Autonomous Province of Vojvodina be the proposer of the bill to be adopted by the National Parliament, with the text of the bill, the Assembly Chairperson submits it to the deputies and the Executive Council, if the Council is not the proposer. The Legislation Committee, the Committee on Cooperation with the Committees of the National Parliament in Exercising the Competences of the Province and the competent committee consider the proposal and submit their report with their opinion to the Assembly.

At the Assembly sitting, the submitter of the proposal that the Assembly of the Autonomous Province of Vojvodina be the proposer of a republican bill to be adopted by the National Parliament may provide additional reasons why the Assembly should be the proposer of the bill. The Executive Council's representative, if not the proposer, and the representative of the Committee on Cooperation with the Committees of the National Parliament in Exercising the Competences of the Province may additionally justify the proposal for the acceptance or rejection of the proposal. When the Assembly accepts to be the proposer of the bill, the debate about the text of the bill opens. Voting on the text of the bill is in its entirety. The Assembly establishes the bill, appoints the Assembly representative in the National Parliament and authorizes him to accept amendments which do not change the basic terms. The Assembly Chairperson submits the bill to the National Parliament and informs the National Parliament about the authorized representative.

The Procedure for submitting amendments to republican bills. The proposal that the Assembly submits amendments to a republican bill may be submitted by the Executive Council, deputies, the competent committee and the Deputy Group.

The proposal for amendments to the bill is submitted to the deputies, the Executive Council, if it is not the proposer, the competent committee, if it is not proposer, and to the Committee on Cooperation with the Committees of the National Parliament. The Executive Council, if it is not the proposer, the competent committee, if it is not the proposer, the Committee on Legislation and the Committee on Cooperation with the Committees of the National Parliament consider the proposal for amendments and submit the report to the Assembly with the proposal to accept or reject the amendment. When the Assembly has established the amendments, it appoints the Assembly representative who will provide the rationale for the amendments in accordance with the National Parliament Rule of Procedure at the National Parliament sitting. The Assembly Chairperson submits the amendments to the National Parliament and informs the National Parliament about the authorized representative.

THE PRESIDENT OF THE REPUBLIC

Protector and promoter of the European values

The President of the Republic may have a remarkable role in the Europeanization processes of the legal space in Serbia. Through the performance of his functions he was, and still is in a position to make a significant contribution to its pro-European development and integrating the European values into local conduct and norms. So far he has not made use of such possibilities.

The President of Serbia has the right to a *postponed legislative (suspensive) veto*. This means that the President of the Republic is authorized to send back to the National Assembly a law which it had adopted for another vote; however, he is also obliged to promulgate a law which has been passed anew. According to the new Constitution the placing of a legislative veto has to be followed by a rationale in writing as to why that law was not signed. Previously the rationale was implicit. Such a rationale, along with an unambiguous political message, is in most cases based on contesting the constitutionality, legality or appropriateness of a proposed law.

The incumbent President of the Republic, in the course of slightly more than two years in which he performed the function, resorted to this right in two cases²³.

In one of the two cases when the incumbent President of the Republic did not sign the ordinance on the promulgation of a law, the explanation referred to the assessment that certain legal arrangements were not in line with democratic principles of regulating relationships (Amendments to the Broadcasting Law). In the case of the Labor Law, the President did not sign the Law because of, as it was worded, fundamental differences between the text which had been adopted in the National Assembly and the text submitted to him for signing. In both of these cases, the National Assembly adopted the texts of these laws that were identical to the texts whose signing the President of the Republic had refused, disregarding his objections, which were the reason for his original refusal to put his signature on these enactments. In one case, however, the President of the Republic, did not use his right of legislative veto, although the democratic public expected him to do so, and did not refuse to sign an ordinance on the promulgation of the Law on Churches and Religious Communities²⁴ and return it to the members of parliament to be reconsidered. That Law was criticized by both the OSCE and the Council of Europe, which underscored its incompatibility with contemporary European standards in this field.

Before the changes to the Constitution the President had the possibility to demand that the Government present its positions on certain issues from within its competence to the Parliament. Unfortunately, the President of the Republic has not once asked the Government to present in the National Assembly its stands on certain issues falling within its competence, despite the fact that he had more than enough reasons for that, first and foremost when in May 2006 the negotiations with the EU were suspended due to the failure to meet the obligations toward the International Criminal Tribunal for the former Yugoslavia. The new Constitution revoked this right from the President.

²³ The first case was the adoption of the Labor Law, while the second one involved the amendments to the Broadcasting Law.

²⁴ *Official Gazette of the Republic of Serbia*, no. 36/2006.

It will be a great challenge for the legal science to explain and qualify the form of governance in Serbia and the position of the President. In any case, the new Constitution has weakened the position of the President of the Republic and reduced his competence in making declarations including those during periods marked by a state of war and state of emergency. His role in the control of the Government has also been reduced.

RECOMMENDATIONS

In the interest of the faster approximation of Serbia to the EU the President of the Republic should and can significantly increase his controlling function in relation to the National Parliament and the Government, and by performing his other competences can and should insist on the persistent implementation of pro-European development policies and through his department contribute to the development of the pro-European social consensus;

- ▶ it is necessary for the President of the Republic to use his constitutional right of legislative (suspensive) veto whenever he has assessed that a proposed law deviates from the goals enshrined in the National Strategy for EU Accession, that is, if it is not in line with EU principles and standards in a given field, and to do that in a substantiated and argued manner;
- ▶ In carrying out his duties, the President of the Republic should, much more clearly than to date, unreservedly advocate for the European values and promote the pro-European development of the country. The convincing majority of Serbian citizens (between 75 and 80%), who directly elect the President, believe that the accession of Serbia to the EU represents the desirable development of Serbia and that it contributes to the achievement of their interests and prosperity. On the other side, the President is obliged when carrying out his duties to contribute to the “preservation of peace and prosperity of all citizens of the Republic of Serbia” (from the oath, article 144 of the Constitution). It is obvious that in this domain the constitutional obligations of the President and the citizens’ aspirations coincide on a high level.
- ▶ Considering that the President is elected directly, he can maintain a more intensive dialogue with citizens and set in motion public debates on issues of importance for the rapprochement to the EU and the Europeanization of the country. That can be an efficient instrument in the preservation the pro-European civil consensus in the country.

The President of the Republic: powers, election method, recall

Powers. The President of the Republic represents the Republic of Serbia in the country and abroad; promulgates laws by ordinance; proposes to the National Assembly a candidate for prime minister after having heard the opinion of the representatives of the elected list of candidates in the National Assembly; proposes to the National Assembly candidates for certain functions (for instance, a certain number of judges of the Constitutional Court); commands the armed forces and appoints the chief of the General Staff; appoints and dismisses ambassadors at the Government's proposal; accepts credentials and recalls; grants pardons and confers decorations and honors and conducts other affairs in accordance with the Constitution. At a justified proposal by the Government and in other cases predicted by the Constitution, the President of the Republic may dismiss the National Parliament with the exception being that the Parliament may not be dismissed during a state of war or state of emergency. At the same time as dismissing the Parliament, the President of the Republic schedules parliamentary elections. The parliamentary elections must be held within 60 days from the moment of their scheduling.

Promulgating laws. The new Constitution regulates this issue in detail and differentially. Namely, if the law was passed under emergency proceedings, the President of the Republic must promulgate the law by ordinance within seven days of the day of its adoption (in the former Constitution that was the general deadline for promulgating all laws). For laws adopted under general procedure, the longer deadline of 15 days has been established. The innovation in the Constitution, and at the same time a further limitation of the President's competences, is that if the President of the Republic does not sign the ordinance on promulgating a certain law within the predicted deadlines, the ordinance will be signed by the Chairman of the National Parliament.

Postponed legislative (suspensive) veto. The President of the Republic is authorized to send back to the National Assembly a certain law for another vote. The Constitution contains the explicit provision that the legislative veto must be followed by a written rationale as to why the law was not signed. Previously the rationale implied contesting the constitutionality, legality and appropriateness of the proposed law, even though it could also carry a political message.

The new Constitution is explicit as regards the further procedure of the returned law. During the repeated voting on the returned law the National Parliament must take the President's rationale into consideration (article 133, paragraph 2), which certainly opens the dialogue about the disputed solutions from such a law. If the Parliament votes on the disputed law again it must adopt it with an absolute majority even when it refers to a law for whose adoption in regular proceedings the Constitution requests a simple majority. The Constitution thus demands that during the new voting the will of the legislator is strongly and certainly confirmed.

The president is obliged to sign the law which has been passed anew.

The state of war and state of emergency. In contrast to the previous Constitution, according to which the President of the Republic played the key role in declaring the state of war or state of emergency, the new Constitution predicts that the President of the Republic, together with the Prime Minister and the Chairman of the National Parliament, declares the state of emergency or state of war.

Also, when the National Parliament cannot meet during a state of war, those three highest state officials jointly establish measures of deviating from the human and minority rights guaranteed by the Constitution. When, during a

state of emergency, the National Parliament is not able to meet, the measures of deviating from the guaranteed human and minority rights are issued by the Government, with the counter signature of the President.

Election methods and termination of mandate. The President of the Republic is elected in direct elections, by a secret ballot. The term of office of the President of the Republic is five years. The same individual may be elected President of the Republic not more than two times. The elections for the President of the Republic are scheduled by the Chairman of the National Parliament. If the mandate of the President of the Republic runs out during a state of war or state of emergency, the mandate of the President of the Republic is extended until the expiry of three months from the end of the state of war or state of emergency.

The mandate of the President of the Republic ceases on the expiry of the time for which he was elected, resignation or recall.

The President of the Republic submits his resignation to the Chairman of the National Parliament.

Termination of mandate/office – recall. The National Parliament may recall the President of the Republic because of a violation of the Constitution. The recall procedure may be initiated at the proposal of at least one third of the deputies, and the National Parliament passes the decision to recall by two thirds of the votes of the total number of deputies. The appraisal as to whether the President of the Republic has violated the Constitution is made by the Constitutional Court. When the National Parliament initiates the recall procedure, the Constitutional Court is obliged to decide whether the President has violated the Constitution within no longer than 45 days from the receipt of the request.

According to the previous Constitution (from 1990) the appraisal as to whether the President had violated the Constitution was given by a two thirds majority in the National Parliament. Only after confirmation that the President of the Republic had violated the Constitution, did the Parliament initiate the recall procedure. The citizens were the ones to decide on the recall, i.e. the voters in a direct and secret ballot. The new Constitution completely excludes citizens from the recall procedure of the President of the Republic.

Termination of mandate/office – resignation. The President of the Republic informs the general public and the Chairperson of the National Parliament about his resignation. The term of office of the President of the Republic will cease on the day of his resignation.

Incompatibility of functions. The President of the Republic may not hold any other public function or be engaged in professional activities.

Immunity. The President of the Republic enjoys immunity as a Member of Parliament. The immunity of the President of the Republic is decided upon by the National Parliament.

Replacing the President of the Republic. When the President of the Republic is prevented from performing his duty or his mandate ceases before the end of the term for which he was elected, he will be replaced by the Chairperson of the National Parliament, but for a maximum period of three months.

At the same time the Chairperson of the National Parliament is obliged to schedule elections for a new President of the Republic no later than three months since the President was prevented from performing his duties, i.e. the cease of the mandate for which he was elected.

The New Constitution predicts the adoption of the Law on the President of the Republic, which was not the case so far.

EXECUTIVE POWER

The Government and public administration

Excessive concentration of power

The position and basic competences of executive power and the public administration in Serbia basically do not differ much from the position and competences of executive power in other European countries. In both cases, there is a tendency of executive power becoming stronger than legislative power and of ruling “by decrees”. In view of the fact that Serbia is a transitional country and of the need for fast reforms, it is particularly easy to find justifications and show understanding for such tendencies.

However, when assessing the work and conduct of executive power and the public administration, one must bear in mind that Serbia is a country of meager democratic tradition in which the Parliament has always played a second-rate role and judicial power has often been exposed to interference and pressure by executive power. The principle of the separation of powers, although guaranteed by the Constitution, has never been effectively translated into practice – either nowadays or in the past. Consequently, the wider public has not understood the importance, scope and meaning (*ratio*) of the principle of the separation of powers, whereas, in practice, holders of office have not considered the principle a condition for the democratic establishment of society. Strong executive power, establishment of policies by the Government and their implementation without effective control exercised by the Parliament and the public, as well as “ruling by decrees” may, in some periods of time, speed up desirable social processes (e.g. reforms), but, at the same time, they may also speed up processes undesirable for Serbia’s pro-European development.

In practice it is impossible to determine under which criteria the Government decides to implement particular policies established by the Parliament, while failing to implement, or only partially implementing some other policies. Neither are there criteria according to which the Government submits proposals of particular policies to the Parliament for adoption, while failing to submit others (for instance, the Government submitted to the Parliament the Proposal of a Judicial Reform Strategy²⁵, but did not submit the National Strategy for Serbia’s EU Accession, although the Resolution on Serbia’s Accession to the EU explicitly obliges the Government to submit the proposal of this Strategy to the Parliament for adoption). This practice raises the question as to whether in this manner executive power oversteps its constitutional competences and, at the same time, raises the suspicion that the Government does not conduct itself in accordance with the principle of accountability.

At a time when the National Parliament is hardly efficient in controlling executive power, when judicial power is largely under the control of executive power and a part of civil servants virtually represent party interests, excessive concentration of power in executive authorities may be conducive, and, indeed, is conducive in practice, to shifting power from the institutions of the system, including the Government itself, to political parties and other centers of power, or to preventing the control of particular parts of the institutional system (the security service, the Army, the police, inspection services).

²⁵ The National Parliament adopted the Judicial Reform Strategy at its session of 25 May 2006.

Transparency of work is a condition for accountability

The principle of transparency in the work of all state authorities, including executive authorities, the public administration and other authorities and organizations in which public competences are vested, was guaranteed even by until recently valid socialist Constitution²⁶. Transparency is, nevertheless, not a significant factor in the work of the Government and administrative authorities.

Publishing of general acts. The usual manner of communicating with the public is through general acts published in official gazettes (the Official Gazette of the Republic of Serbia) as regards the acts of general nature//, and that is the legal obligation.

The right to free access to information. In November 2004, after years-long insistence by the NGO sector, Serbia adopted the Law on Free Access to Information of Public Importance²⁷. Four highest authorities, namely the National Parliament, the President of the Republic, the Supreme Court and the Republican Public Attorney's Office, are excluded from the obligation to act upon the order of the Commissioner for Information of Public Importance. After two years of monitoring the implementation of this Law, carried out by a coalition of 14 non-governmental organizations, amendments to the Law were proposed²⁸. The coalition insists that a Law on Classified Information²⁹ (treatment of secrets) should urgently be adopted as well. The Law would regulate which activities and acts of state authorities may be proclaimed confidential; on the basis of which criteria activities and acts of state authorities may be proclaimed confidential; which competent authorities may decide if an act is confidential and establish the degree of confidentiality. Today this sphere is regulated by a large number of by-laws and it is almost impossible to establish which authorities are competent for their adoption, what their competence is based on, under which criteria some information or activity of executive authorities and administrative authorities may be proclaimed secret and what kind of secret it is (state, official, military secret). The same coalition of non-governmental organizations prepared the principles on which the Law on Data Classification should rely and submitted them to the Government. However, neither the Government nor the competent ministries exhibited any interest in meeting the representatives of the civil sector and talking about the submitted proposals. Both laws, as well as the Law on the Protection of Personal Data, are mentioned in the Feasibility Study as acts which must be incorporated in the legal system and harmonized with European standards.

The Government's unwillingness to take the public into account is also reflected in the Foreign Investment Bill, stipulating that information on foreign investment is not accessible to the public in the context of the Law on Free Access to Information of Public Importance, without the foreign investor's consent. Not only that this approach fails to contribute to the transparency of work of public authorities, but it directly encourages corrup-

²⁶ Article 10 of Serbia's Constitution, *ibid*.

²⁷ *Official Gazette of the Republic of Serbia*, no. 120/04.

²⁸ See: *Free Access to Information of Public Importance*, the Report on the Implementation of the Law on Free Access to Information; the Fund for an Open Society, Belgrade, June 2006.

²⁹ *Ibid.*; see also: *"The Protection of Personal and Confidential Data – Legal Standards"*, the Fund for an Open Society, Belgrade, 2005.

tion, which is a pronounced problem in the work of all public authorities and holders of office (corruption and the efficiency of anti-corruption policies and measures is the subject of a special report within this project).

Communication through the media. In general, the Government informs the public about its work through the media and through public statements issued by the Government's Office of Media Relations and press conferences held by high Government officials (the Prime Minister, the Deputy Prime Minister and Cabinet Ministers). Seen from the outside, there is a pattern showing that each Government member speaks at press conferences at particular intervals about the Government's work (on which occasion they answer journalists' questions as well), even when there is nothing new to be communicated to the public concerning the work of their respective ministries. It happens quite often that even in the most dramatic situations, when, for example, the fate of negotiations on the Stabilization and Association Agreement is being decided, ministers of energy, labor or education answer the questions as to what the Government is doing to arrest persons wanted by the Hague Tribunal, instead of the police minister. All in all, the quality of the Government's communication with the public is weak and the public is often deprived of correct and meaningful information.

Dialogue with the informed public (second and third sector). The Government's openness to the proposals and initiatives of citizens, enterprises and their associations leaves much to be desired. The Government rarely has consultations with the general or professional public regarding the contents of new policies or laws which are yet to be elaborated or which are being prepared by the Government. The perfect illustration of this is the preparation of the Law on Non-Governmental Organizations: after several unsuccessful attempts to learn from the competent ministry if and when a new NGO law will be passed, non-governmental organizations addressed the ministry through an ad which was published in daily and weekly newspapers and in which they posed their questions.

Consultations with the second (business) sector and the third (civil society) sector and, generally, with all those affected by the policies and laws in question, are much more frequent, but are still not a regular practice, except when international organizations (the OSCE, UNDP, the Council of Europe) and other parties (ABA-CEELI, USAID, etc.) assist the Government and the ministries in developing specific policies and in proposing new legislation. The same is true of the process of Serbia's EU approximation and of the elaboration of policies and laws significant for the Europeanization process.

This manner of communication puts the public in such a position that it can only respond *ex post facto* to particular decisions and moves by the Government, which in itself weakens the possibility for the public to influence the Government's decisions and policies effectively.

The insufficient transparency of work of the executive branch and the public administration, their inaccessibility and the selective control of this branch by the weak Parliament are not sufficient to guarantee the accountability of executive power.

The accountability of executive power

The Government accounts to the National Parliament for policy and law implementation. To date the Parliament has resorted to Government control mechanisms only very rarely: deputies' questions, interpellation, the vote of confidence.

Executive power is under the obligation to inform the Parliament on its work through annual and other periodical reports. The Government, ministries and other administrative authorities regularly submit their annual reports to the Parliament. It has never happened so far that the Government or an administrative authority failed to meet this obligation towards the National Parliament. However, the Parliament only takes note of these reports and accepts them without having a debate, asking questions, requesting additional explanations or commending the reports (for instance, the 2005 Report of the Security and Information Agency was adopted by the Parliament without a word of debate).

Executive power and administrative authorities are competent for law implementation monitoring through inspection bodies.

Citizens and other legal entities have four instruments of external control of executive power and in the case of Government only three of them. It is by these instruments that they can call the Government and administrative authorities to account. If any of their rights are violated by any act of executive power, citizens and other legal entities may address: the National Parliament's Committee for Submissions and Proposals, the Ombudsman and the Commissioner for Information of Public Importance. However, addressing the Ombudsman remains in the realm of theory rather than practice. The Law on the Ombudsman was adopted in September 2005³⁰, envisaging the appointment of the Ombudsman within six months from the date of its entry into force. However, even eight months after the expiry of that deadline, the Parliament has still not appointed the Ombudsman. The Government, in conjunction with five other highest authorities, was excluded from the intervention of the Commissioner for Information of Public Importance. The new Constitution excludes the Government and the same bodies from the competence of the Ombudsman which, however, has become a Constitutional category.

Finally, it is possible to institute administrative litigation against the acts of executive power and state authorities. Although the establishment of an Administrative Court has been postponed as often as ten times, citizens can at least institute administrative litigation before general jurisdiction courts.

³⁰ *Official Gazette of the Republic of Serbia*, no. 79/05.

The coordination of Serbia's rapprochement to the European Union

After opening negotiations on the Stabilization and Association Agreement between Serbia (at that time Serbia and Montenegro) and the European Union, special bodies were established, both at the state union level and at the level of the Republic of Serbia, to coordinate EU accession-related activities.

The Serbian Government set up the *European Integration Council* as an advisory body, exclusively consisting of Government members and employees. In spite of the explicit provision from the Decision on its establishment, that it may engage expert and educational organizations and eminent scientists with long term experience in working with the issues of the European Union, especially as regards the harmonization of the national legislation and the legislation of the European Union, that possibility has not been used in the last three and a half years of its existence. The fact that this body does not comprise any representatives of any other social sector (e.g. the second or the third sector or state authorities – the Parliament or judicial power) but executive power, the purpose of this body only advising itself remains unclear. Apart from that, it is more than indicative that the Council has not met once since the suspension of the negotiations on Serbia's Stabilization and Association to the EU, in May 2006.³¹

The Government established the *EU Accession Coordinating Commission* and the *European Integration Office of the Government of the Republic of Serbia*. The distribution of competences between these bodies, their mutual relations and the effect of their decisions are not precisely defined, which certainly is a shortcoming rendering the coordination of this process more difficult.

Relations between these Government bodies and the European Integration Committee of the National Parliament of Serbia are not defined and there have been no cases of their mutual coordination and communication in practice.

The European Integration Office of the Serbian Government signed a Memorandum on Cooperation with 78 non-governmental organizations which had expressed interest in investing their knowledge and capacities in the process of Serbia's European integration, definition and implementation of pro-European development policies and in the Europeanization of Serbia's social, political, economic and legal space. This mechanism has not been sufficiently used so far within consultations aimed at establishing pro-European development policies and legislation³². Not once, within the framework of this mechanism, have the bills or the policies of importance to the process of accession to the EU or other similar issues been discussed. The reason partially lies in the fact that the Office in fact does not have the essential competences or the power to make the consultation process with the second or third sector part of the proceeding of the drafting and development of new policies and laws. The Memorandum is still open for signature to new partners.

³¹ During the mandate of the Government in which it was set up, the Council held two sessions, while during the mandate of the current Government the Council held three sessions, on 26 April 2005, 10 June 2005 and 8 September 2005.

³² See the Memorandum on Cooperation in the European Integration Process, signed with non-governmental organisations, see www.seio.sr.gov.yu

The SCG Ministry of Foreign Affairs, which should become, but legally has not become yet, a part of the Serbian Government, established the European Union Direction. Unfortunately, this measure was not supported by strengthening the capacities of Serbia's (SCG) diplomatic missions in the countries of the European Union. These missions could and should play an active role in Serbia's EU association and accession process.

In addition, each ministry set up an organizational unit dealing with EU accession-related tasks of the ministry in question. Each ministry defines on its own the organization and work of these units, so that in some ministries they are headed by state secretaries, former assistant ministers, while in others they are headed by civil servants of lower ranks.

The entire process of Serbia's EU association or even accession is closely connected with the promotion of Serbia's relations with NATO. Although it has never been explicitly mentioned that the promotion of relations with NATO is a condition for EU association or membership, it is quite clear that it was practically a condition met by all countries undergoing the EU accession process in 1990's. Therefore, Serbia's inclusion in the Partnership for Peace and further formalization of its relations with NATO should be seen as an integral part of the stabilization and association process. Institutionally speaking, it means that institutions directly responsible for Serbia-NATO relations should be adequately represented in the bodies in charge of coordinating Serbia's EU association process.

The organizational capacities of the public administration and the position of civil servants

Between 2000 and 2005, the organizational and expert capacities of Serbia's public administration were subject to numerous analyses and studies by domestic and foreign experts. Many recommendations, most of which are similar, were given as to the manner in which the organization and work of executive power and the public administration should be promoted and a substantial part of international donations was spent on the elaboration of analyses and feasibility studies, which very often had the same subject of research and the same results (donations from the World Bank; UNDP; governments of some countries that extended assistance through their state agencies for international aid, their non-governmental organizations or through multilateral international organizations; private donors: the Fund for an Open Society, the Rockefeller Foundation and others). At last, in late 2004, the Parliament adopted at the Government's proposal of the Public Administration Reform Strategy and the Strategy Implementation Action Plan. The results of the implementation of the reform will be analyzed in the next section. Nevertheless, even today the public administration needs the same things which were defined in numerous recommendations of 2002: increased professionalism, rationalization, depoliticization, increased efficiency, transparency of work, strengthening personal accountability of civil servants, investing in professional training, establishing partnership with the private sector and mechanisms for citizens' participation in the decision-making process. The above are, at the same time, the objectives listed in the Public Administration Strategy Reform.

Upon the adoption of the mentioned Strategy, there were more educational and training programs aimed at promoting civil servants' professional knowledge and skills. Training and educational programs and the transfer of knowledge both from the regional countries and Central European countries, as well as technical aid important for the EU association process, were particularly promoted.

The European Integration Office of the Government of the Republic of Serbia organized 21 seminars attended by 630 civil servants in the course of 2005, with the aim to advance the professional knowledge of civil servants and to promote the capacities for assuming the obligations stemming from the EU association process.

The successful and fast development of the first part of negotiations on the Stabilization and Association Agreement shows that the above activities yielded good but not sufficient results. The fact that it was necessary to hire foreign experts in defining the Government's program of spending EU assistance in Serbia between 2007 and 2013 indicates the need to continue to promote civil servants' knowledge and skills. Some organizations and expert groups in Serbia have the knowledge important for the EU integration process, which, in some segments, surpasses the knowledge of civil servants. As a result of the unwillingness on the part of the Government and the public administration to cooperate with such organizations, domestic capacities (comparatively bigger than those of some EU countries at the time when they were at the same stage of EU association process as Serbia today), remain completely unjustifiably neglected and unused.

The weakest points of Serbia's public administration continue to be, among other things, slow depoliticization (no form of lustration has been applied although there is a Law on Lustration, while the Government and ministries continue to employ party personnel), as well as the widely spread practice of exerting political pressures on civil servants. There is no Public Administration Code of Ethics either. Furthermore, in the history of Serbia, the principles of the professionalism and depoliticization of civil servants were never dominant in the work of the state bodies of power, and are not dominant today either. The question is as to whether and how those principles will be implemented in the future. For instance, according to the previous Law on Civil Servants, the positions of the assistants to the ministers were considered as political ones, the same as the positions of the ministries secretary generals. Every government appointed candidates proposed by political parties to those positions, who were most often members of those parties. It was the same with the current Government. Meanwhile, the Law on Civil Servants³³ was changed. The positions of the assistants to the ministers were, pursuant to the law, renamed as positions of the state secretaries, and the Law predicts that those positions are professional, thus only candidates who fulfill professional depoliticization criteria may be appointed to those positions. When the Law went into effect, the majority of appointed assistants to ministers (apart from a small number who did not fulfill the conditions regarding the length of service) who were, as a rule, party cadres, were automatically assigned to the positions of state secretaries. When this Government completes its mandate, it will leave behind party cadres in the positions of state secretaries, and the new Government will not have any legal grounds to replace them, unless it manages to prove in court that they favor their parties in their work. Therefore, the change of the law, even when it is based on European standards, is not sufficient if it is not carried out in good will and

³³ *Official Gazette of the Republic of Serbia*, nos. 79/05, 81/05 and 83/05.

for the sake of achieving the goals because of which it was passed. The Parliament is too passive in carrying out its controlling function to call the Government to responsibility.

As for organizational capacities, all analyses invariably testify to the lack of internal coordination and to the undeveloped mechanism of cooperation between the ministries, a high degree of decentralization of the decision-making process and the poor quality of equipment of the public administration.

RECOMMENDATIONS

The executive power and the public administration bear the greatest part of responsibility for the success in the EU association process. If executive power and the public administration are to meet all preconditions for exercising their competences and functions in an efficient and responsible manner, first in the EU negotiation process, and, later, in executing the obligations arising therefrom, they must considerably promote their work, organization and capacities, be open for cooperation with other segments of society and placed under the control of the Parliament and citizens.

Before the announced elections it is necessary to consolidate the Government of Serbia

► Under the principle of the rule of law, Serbia's Government should assume all functions earlier exercised by the state union executive authorities. The Defense Ministry and the Foreign Ministry must be incorporated in the Serbian Government and placed under the National Parliament's control. The by-laws under which the Ministry of Human and Minority Rights was dissolved must be reconsidered and their legality assessed by the Constitutional Court.

Now and immediately prior to the establishment of the new Government the executive power is facing several urgent tasks.

1. The establishment of an efficient mechanism for coordinating the process of Europeanization

► The Government should very precisely define the position, competences and mutual relations of the bodies which it entrusted with the coordination process and EU association-related tasks.

- The Government should strengthen the European Integration Council and the European Integration Office and promote their efficiency. The Defense Minister should undoubtedly be a member of the European Integration Council.³⁴ This Council should have more members who would not be Cabinet Ministers (representatives of the second and the third sector, leading experts and distinguished figures advocating Serbia's EU association). In any case, the Council's work should be made public and open for the initiative and participation of organizations and institutions outside the Government.
- In order to increase the efficiency of work on the Europeanization process and pro-European development, the ministries should coordinate their organization and create conditions for unhindered communication between the organizational units in charge of the association process.

³⁴ The Council members are: the President, vice president and 11 ministers – members of the Government (finances; internal affairs; justice; international economic relations; agriculture, forestry and water supply; mining and energetic; capital investments; economy; trade, tourism and services; labor, employment and social policy; science and environmental protection; state administration and local (self) government and the secretary general.

- In view of the fact that the EU association process is not only a technical issue having to do with the harmonization of legal regulations and standards, but also a political process, it is crucial that each Serbian embassy in the EU member countries should have a high-ranking diplomatic representative to deal with EU association-related issues. Serbia's missions to the European Union, NATO, the Council of Europe and OSCE must at all times have relevant information and instructions regarding EU association and accession-related issues.
- For the same reason it is necessary to establish regular communication channels between the Government and its bodies and the National Parliament's European Integration Committee.

► The Government needs to establish continued communication and consultations with the public and to be open for the initiatives and recommendations of citizens and civil society institutions, the general and professional public, trade unions and business sector associations. If the executive branch and the public administration continue to work in the same manner, primarily characterized by insularity, then Serbia will only have the rule of executive power, but not good democratic governance as well.

Furthermore, taking the public into account and being open can enable Serbia to use the capacities of those segments of society which are outside the state institutions. Being open for public-private partnership and civil society is also an instrument of the more rational spending of resources allocated from the state budget and local budgets, as well as of foreign donations. The mechanism of consultations established by the Memorandum on Cooperation should be applied as soon as possible in order to review draft policies and laws important for the EU approximation process and Europeanization.

2. The strengthening and implementation of mechanisms and instruments for carrying out the control over the work of the Government and the state administration

► Strengthening openness means strengthening accountability as well. This is why the amendment of the Law on Free Access to Information of Public Importance is a condition for implementing the principle of accountability and exercising the more efficient control of executive power. By this we mean three amendments to the Law: to release from any responsibility a civil servant who, in order to protect the prevailing social interest, makes accessible to the public documents revealing unlawful and illegal acts committed by holders of office; granting the Commissioner for Information of Public Importance the right to appeal against the decisions of the highest government authorities, including the Government; stricter sanctions in case of any breaches of the Law on Free Access to Information. Strengthening openness also means adopting a Law on Data Classification, with a view to overcoming the present legal chaos in this field, which virtually derogates the Law on Free Access to Information.

► It is high time to apply mechanisms of external control of executive power, which were envisaged long time ago. This recommendation is particularly related to the establishment of the Administrative Court, postponed ever since 2002, the appointment of the Ombudsman and to passing amendments to the Law on Free Access to Information of Public Importance.

► In order to promote executive power's accountability and the control of its work, it is necessary to pass new or amend the existing laws (the Law on General Administrative Procedure, the Law on Administrative Litigation, the Law on Civil Servants' Salaries, the Law on Inspection Control, etc.), as well as the by-laws necessary for their implementation. Responsibility for strengthening the mechanisms of the external control of executive power primarily rests upon the Parliament, which should promote its supervisory function.

3. Efficient and consequent control over the implementation of adopted policies and legal acts

► Analyses show that apart from all objections to the legislation in force, the key problem lies in law and policy implementation. It is for this reason that the Government needs to promote and fully use all mechanisms of control of the public administration and its acts, while state authorities need to start using their competences fully and without exception in order to "monitor and assess the situation in their purview", and particularly in order to "take measures or propose to the Government regulations and measures in their purview"³⁵, to strengthen and considerably improve inspection and other services and mechanisms of law implementation control.

4. Increasing the capacities of executive power and civil servants for carrying out European tasks

► In order to promote executive power's efficiency and performance it is necessary to consistently implement the Public Administration Reform Strategy. The Strategy defines the following objectives: advancing the capacity of civil servants, improving their skills and introducing a permanent training system, developing career policies, introducing incentives such as promoting and rewarding civil servants, promoting the reward system, increasing professionalism and ensuring depoliticization. Ever since it was adopted in 2004, this Strategy has been implemented only partially and too slowly in view of the deadlines set in the Strategy Implementation Action Plan.

► Bearing in mind the executive power's responsibilities and its purview, it is clear that executive authorities need experts of new profiles. The executive branch, as an employer, should, therefore, clearly define expert profiles and skills it necessitates. Only in this manner can educational institutions adjust their supply and define educational outcomes in accordance with the market demand.

³⁵ The Law on Public administration, Article 13, *Official Gazette of the Republic of Serbia*, no. 79/05.

Public administration reform

Practice is what counts

In late 2004, after numerous demands, furnishing of arguments, analyses, feasibility studies and reiterations (and money from foreign donations spent), the Government of the Republic of Serbia adopted the Public Administration Reform Strategy³⁶, which, with financial support and expert assistance of international organizations, has been developed by the Ministry of Public Administration and Local Self-Government. The Strategy is accompanied by the Action Plan for its Implementation (2004–2008). In order to assess the pace and effects of public administration reform, it is very important to understand that a thorough-going reform in this sphere is not just a question of passing and implementing laws and regulations which directly intervene in the system of public administration. This reform is largely conditioned and dependent on the general situation in politics, economy and the legal branch of society. Even if all measures envisaged under the Action Plan for Implementation of the Public Administration Reform were enacted by now and were being carried out, we would at best only be able to speak about a more efficient and capable administration. But it would not mean that in so doing the goals that motivated public administration reform in the first place would have been attained. Without more rapid and better quality moves in key areas, functions and fields of the state, economy and society, one can hardly expect state administration reform to be successful.

In its Final Report for 2005³⁷ which assessed the public (state) administration, the European Commission warned that the set of relevant laws was incomplete; that there was a lack of regulatory acts which would ensure functional implementation of the adopted laws; it warned of bloated bureaucracy, which to boot fails to meet the required professional and expert standards. What was specifically emphasized is the inadequate and detrimental persistence on interference and pressures by political factors on activities and decision-making of the administration. The assessment that there is deficiency in implementation of measures and creation of conditions for the beginning of announced process of decentralization and devolution – political, administrative, economic, financial and fiscal – has remained valid. Nine months after the publication of this Report, these assessments stand as they are, with nothing to add or subtract.

The document entitled „The Strategy of the Public Administration Reform in Serbia“ rests on good professional foundations and emphasizes the need for permanent development of public administration. The direction which the reform will be taking has been chosen on the basis of recognition of uses to which public sector and modern state (or public) administration are to be put: transition from industrial society to IT society; transition from national economy to world (global) economy; transition from short-term to long-term planning; and transition from centralism to decentralization. One of explicitly stated reasons for taking up this reform is the need/ to make public administration capable of performing tasks which ensue from the process of the country's rapprochement to the EU and the stated basic goal of the reform is „to build state administration oriented towards

³⁶ At the 42nd Session of the Government, held on 5 November 2004

³⁷ Brussels, Nov 09, 2005 (SEC 2005) 1428, {COM(2005) 561 final form

citizens, capable of offering the citizens and the private sector high quality of services at reasonable cost.“ The following principles have been chosen as the guiding ones in the process of implementation of public administration reform: decentralization, depoliticization, professionalization, rationalization and modernization, that is, meeting the needs of an IT society. However, when one tries to see in the Action Plan the specific and concrete measures aiming to boost capacities of public and local (self-)government to serve the process of rapprochement with the EU, no particular references can be found which testify to the functional connection between state administration reform and the process of rapprochement.

Secondly, a number of important reform laws has been adopted. However, some of them are not accompanied by measures and regulations enabling their effective implementation (the Law on Protector of Citizens (Ombudsman); the Law on Local Self-Government).

Thirdly, preliminary work involving rationalization of the number and role of administrative workers in central and local administration has been done, but it failed to envisage a possibility that the state union of Serbia and Montenegro would cease to exist, so the work done will partially have to be done all over again.

Finally, institutional capacities for coordinating the work of EU accession have been enhanced and reinforced. Nevertheless, effective functioning of this new institutional network of bodies and organs is not an object of permanent attention of the executive government. For example, the Council for European Integration, as a political advisory body, has not met over a longer period, not even when negotiations on SAA with the EU were on the brink of being suspended, and not six months after that either. Accordingly, the professional part of these institutions does not have an appropriate political outpost and a supporting pillar among the executive government.

Functional links with other policies... Deadlines... Funds...

All the negative characteristics already mentioned when implementation of set policies and legislation are concerned, also reflect on and multiply when it comes to implementation of Public Administration Reform Strategy.

The measures enacted in one area (laws, accompanying regulations, analyses) are not part of a functional set of measures, which can ensure that projected goals are only attainable if all relevant measures are put in place simultaneously. The case in point would be the Law on Local Self-Government. This is the law which has been highly aligned with European standards and ensures that in the future, local self-government in Serbia can be integrated into European horizontal networks of relations and cooperation and assume its share of tasks and responsibilities related to EU rapprochement processes. However, this law as a whole remains inapplicable in practice. The reason is the fact that the passing of this law has not been accompanied by amendments to sector laws to transfer competence to local self-government, nor has it been accompanied by a process of fiscal decentralization or restitution of property to local authorities. The good practice example would have been if all these laws had been adopted at the same sitting of the National Assembly. The five-year vacuum (from 2002 to 2007)

makes the fact and assessment that a regulation is good lose its meaning. Furthermore, the (in)efficiency of spending money for such tasks raises the issue of responsibility of the state bodies for such way of discharging public office.

The situation is similar when it comes to modernization. The Draft Strategy of Development of the Information Society, in which the Ministry of Public Administration and Local Self-Government, UNDP and the Fund for an Open Society have participated, has been made after a broad public discussion involving both the second (business) and the third (civil) sector and was finalized in December 2005. The government was supposed to adopt it in January 2006, but fails to do so even to this day. The donors were willing to set aside certain funds for its implementation at the time when it was finalized. If the Strategy were to be adopted today, the entire mechanism for raising funds for its implementation would have to be started all over again.

For insufficiently clear reasons, the Action Plan almost exclusively describes short-term and only sporadically mid-term reform process. Furthermore, implementation deadlines are not planned on the basis of defined set of priorities but are arbitrarily incorporated into plans of implementation of certain policies. The tasks in this regard are performed when it suits the executive government to do so. The case illustrating this statement is the manner of implementation of the Action Plan, namely its part pertaining to decentralization. First the deadlines have been set, and a new criterion for setting deadlines, namely enactment of the Constitution, has been introduced only subsequently. The Law on Ministries is another case in point. The National Assembly, in its Decision to Transfer Competence of Serbia and Montenegro to the Republic of Serbia taken on June 5, 2006, set a 45-day deadline for enacting necessary acts and taking measures to ensure effective effectuating of competences of Serbia, primarily in areas of foreign policy and defense. The Secretariat for Legislation of the Serbian Parliament, in charge of submitting proposals for changes and amendments to this law, decided to do it when it suited them, supposedly in accordance with the rule of law, i.e. it had not done it when this report was completed.

The relationship that executive government and administrative bodies have toward deadlines can easily be identified in the dynamics of implementation of the Action Plan.

Action Plan for Implementation of Public Administration Reform for the period 2004 to 2008³⁸

Measures and activities	Deadlines and realization	Executed by:
I. Area of decentralization		
1. Analysis of functioning of local self-government bodies in terms of the Law on Local Self-Government	<p style="text-align: center;">— By the end of 2006</p> <p>Current condition: planned for 2007 because new Constitution is expected to be enacted which will introduce certain changes to the level of the local government</p>	Ministry for Public Administration and Local Self-Government in cooperation with towns and municipalities and the Standing Conference of Towns and Municipalities
2. Amendments to the Law on Local Self-Government on the basis of the aforementioned analysis	<p style="text-align: center;">— By the end of 2006</p> <p>Current condition: amendments to the Law will take into account enactment of the Constitution and the analysis of functioning of bodies of LSG</p>	Ministry of Public Administration and Local Self-Government
3. Amendments to sector laws as a legal foundation for further transference of competence to local authorities.	<p style="text-align: center;">— In the course of 2006.</p> <p>Current condition: planned for 2007</p>	All competent ministries
4. Passing and/or amendment of financial regulations within the process of fiscal decentralization	<p style="text-align: center;">— In the course of 2006</p> <p>Current condition: also planned for next year because of enacting the new Constitution</p>	Ministry of Finance
<p>5. Boosting capacities of local bodies to take over work on:</p> <ul style="list-style-type: none"> — human resource training, — change of organizational and managerial framework, — provision of technical and technological equipment. 	<p style="text-align: center;">— 2005 to 2008</p> <p>Current condition: concrete activities are expected in the future, after relations between central and local level have been defined (the Constitution):</p> <ul style="list-style-type: none"> — SCTM has taken an initiative with the help of the Fund for an Open Society to set up a training center; the program for raising capacities of local authorities related to the process of EU accession and cross-border cooperation is being made; the first trainings will take place in November 2006. 	Ministry of Public Administration and Local Self-Government and/or Standing Conference of Towns and Municipalities or, less frequently, direct relations between the donor and the local self-government unit

³⁸ State of affairs in March 2006. In terms of the original Action Plan for Reforming Public Administration and the set deadlines, delays are from 12 to 18 months.

II. Creation of a legal framework for building professional state administration		
1. Law on Ministries	<p>— Adopted in 2004</p> <p>Current condition: amendments to the Law are expected to be adopted in October due to transference of competence from Serbia-Montenegro to Republic of Serbia</p>	Republican Secretariat for Legislation
2. Law on Executive Government	<p>— Adopted on June 22, 2005</p> <p>Current condition: adopted and is being applied</p>	Republican Secretariat for Legislation
3. Law on Public Agencies	<p>— Adopted on February 24, 2005</p> <p>Current condition: adopted</p>	Republican Secretariat for Legislation
4. Law on Free Access to Information of Public Interest	<p>— Adopted on November 2, 2004</p> <p>Current condition: adopted and is being applied</p>	Ministry of Culture
5. Law on Electronic Signature (not operative)	<p>— Adopted December 21, 2004</p> <p>Current condition: adopted; is not being implemented (The Strategy for Development of Information Society is being drafted)</p>	Ministry of Science and Environment
6. Law on General Administrative Procedure	<p>— Adoption in the course of 2006</p> <p>Current condition: planned for 2007</p>	Ministry of Public Administration and Local Self-Government
7. Law on Procedure in Contentious Administrative Matters	<p>— Adoption in the course of 2006</p> <p>Current condition: planned for 2007</p>	Ministry of Public Administration and Local Self-Government
8. Law on the Protector of Citizens (Ombudsman) (not operative)	<p>— Adopted on September 16, 2005</p> <p>Current condition: adopted; is not being applied. Ombudsman has not been appointed by the Parliament.</p>	Ministry of Public Administration and Local Self-Government
9. Law on State Administration	<p>— Adopted on September 14, 2005</p> <p>Current condition: adopted</p>	Republican Secretariat for Legislation in cooperation with the Ministry of Public Administration and Local Self-Government
10. Law on Civil Servants	<p>— Adopted on September 14, 2005</p> <p>Current condition: adopted, undergoing implementation (competence of the government's Human Resource Management Service)</p>	Republican Secretariat for Legislation in cooperation with Ministry of Public Administration and Local Self-Government and Ministry of Finance
10. Law on Pay of Civil Servants	<p>— Adoption by mid 2006</p> <p>Current condition: adopted, classification of jobs completed and is to enter into force on Jan. 1, 2007 (competence of the government's Human Resource Management Service)</p>	Republican Secretariat for Legislation in cooperation with Ministry of Public Administration and Local Self-Government and Ministry of Finance

III. Creation of conditions for implementation of the new public administration framework		
1. Enactment of sub-Acts for implementing laws	— 60 to 90 days after the relevant law enters into force Current condition: ???	The body that was in charge of drafting the law
2. Promotion of public administration reform and its „popularization“	— In the course of 2006 Current condition: a part of the UNDP program (program realization started on September 1, 2006)	Ministry of Public Administration and Local Self-Government
3. Functional analyses and assessment of capacities of various bodies	— First stage in 2005 — Second stage during 2006 and 2007 Current condition: analyses have been made in several ministries as a part of various donor projects and as support to the process of rationalization carried out in June 2006 (number of employees reduced by 11,4%). — as a part of the UNDP program (program realization started on September 1, 2006).	All bodies of the Republic of Serbia in cooperation with Ministry of Public Administration and Local Self-Government
4. Introduction of new organizational and managerial framework and new systematization of jobs (along with the necessary rationalization)	— In the course of 2006 and 2007 Current condition: new systematizations have been completed within the process of rationalization and new system of description of jobs of civil servants has been made as a part of preparatory stage for implementing the Law on Pay of Public Servants (the so-called classification of jobs) — as a part of the UNDP program (program realization began on September 9, 2006)	All bodies of the Republic of Serbia in cooperation with the Ministry for Public Administration and Local Self-Government and Ministry of Finance
5. Corrections to the existing system of pays as a preliminary step towards implementation of the new system of remuneration	— By mid 2006 Current condition: new scheme for calculating pay specified under the Law on Pay of Civil Servants	Ministry of Finance
6. Beginning of implementation of the new system of remuneration	— By mid 2006 Current condition: ???	Ministry of Finance
7. Evaluation and modification of the system	— In the course of 2006 and 2007 Current condition: ???	Ministry of Finance
8. Training of members of reform teams and reform coordinators and strengthening of the coordinative role of MPALSG	— 2005 — 2008 Current condition: DfID project was completed in 2005	Ministry of Public Administration and Local Self-Government, with participation of all ministries
9. Evaluation of public policies in the field of public administration reform	— 2005 — 2008 (at the annual levels) Current condition: ???	Ministry of Public Administration and Local Self-Government

IV. Human Resources Management		
1. Training of members of human resources management units	<p>— 2005—2008</p> <p>Current state of affairs: Trainings are carried out within a Sida project, and since December 2006 HR is under jurisdiction of the government's Human Resources Management Service (this project was taken over by the Service)</p>	Ministry of Public Administration and Local Self-Government, with participation of all ministries, the (newly formed) Service for Human Resources Management
2. Extending the circle of bodies covered by the human resources management project, including: — hardware and software equipment of these bodies, as well as — human resource training	<p>— In the course of 2006</p> <p>Current condition: HR is fully a competence of the government's Human Resources Management Service (the Service has not extended the project)</p>	Ministry of Public Administration and Local Self-Government, Service for Human Resource Management
3. Expanding the common database of human resources within the Ministry for Public Administration and Local Self-Government	<p>— In the course of 2006</p> <p>Current condition: HRMIS was taken over by the Service (there is no reliable information about what the Service did, but under the Law on Civil Servants the database was supposed to be functional and updated, starting from July 1, 2006)</p>	Ministry of Public Administration and Local Self-Government, Human Resources Management Service
4. Setting up one common Training and Professional Advancement Centre for those working in state administration and local self-government bodies	<p>Making of a study on the concept and implementation of the Training Centre — in the course of 2005</p> <p>— Setting up the institution — by the end of 2006</p> <p>Current condition: Feasibility Study for the Centre has been made. The opening of the Centre has been planned.</p>	Ministry of State Administration and Local Self-Government
5. Training of prospective takers of licensing exam: <ul style="list-style-type: none"> — making new programs for taking licensing exams; — preparing new textbooks; — making software for registration of prospective examinees and issuance of licenses; — training of trainers; — training of examinees 	<p>— New programs by the end of 2006</p> <p>— New textbooks in the first quarter of 2005</p> <p>— Software development by the end of 2006</p> <p>— Constant training of trainers and training of examinees after new programs have been introduced.</p> <p>Current condition: application has been made; new textbooks are being prepared</p>	Ministry of Public Administration and Local Self-Government
6. Introduction of an assessment system	<p>— From the start of implementation of the Law on Civil Servants and the Law on Pay of Civil Servants — permanently within the deadlines envisaged under the law.</p> <p>Current condition: amendments to the system of assessment of public officials have been introduced and employees were assessed in accordance with this system for 2005</p>	Serbian Secretariat for Legislation in cooperation with the Ministry of Public Administration and Local Self-Government

V. Modernization – introduction of information technologies		
1. The first stage – overview of the state of affairs	by the end of 2006 Current condition: has not been done	Ministry of Science and Republican Institute for Information Science and the Internet, in cooperation with government services, Republic of Serbia bodies and local self-government bodies
2. The second stage – integration and implementation	by the end of 2007 Current condition: ???	Ministry of Science and Republican Institute for Information Science and the Internet, in cooperation with government services, Republic of Serbia bodies and local self-government bodies
3. The third stage – introduction of the service of e-government	by mid 2008 Current condition: ???	Ministry of Science and Republican Institute for Information Science and the Internet, in cooperation with government services, Republic of Serbia bodies and local self-government bodies
VI. Development of control mechanisms		
1. Modernization of the work of administrative inspection: – acquisition of new equipment, – training of administrative inspectors	– In the course of 2005 – In the course of 2005 and 2006 Current condition: equipment has been acquired and computer training has been organized	Ministry of Public Administration and Local Self-Government
2. Setting up the Administrative Court – enabling material preconditions for the court's work, – selection of judges, – beginning of the work.	– Activities aimed at setting up the court in the course of 2006 – Selection of judges by the end of 2006 – Beginning of the work on Jan. 1, 2007 Current state of affairs: has not been set up, setting up under way	Ministry of Justice in cooperation with the Ministry of Public Administration and Local Self-Government
3. Setting up and beginning of the work of Ombudsman: – appointment of Ombudsman and his deputies; – ensuring venue and equipment for work – enactment of regulations on organization of the professional service, – setting up the professional service	– Appointment of Ombudsman – 60 days after the Law has entered into force – Appointment of deputies – 60 days after Ombudsman has been appointed. – Ensuring working conditions – 60 days after the Law has entered into force. – Organization and setting up the professional service – 30 days after Ombudsman has been appointed. Current state of affairs: Ombudsman has not been appointed.	Appointment – National Assembly of the Republic of Serbia
Passing of the Law on Children's Ombudsman	In the course of 2006 Current condition: ???	Ministry of Public Administration and Local Self-Government

Just like the majority of acts which the Government has adopted so far, the documents entitled „Public Administration Reform“ and the „Action Plan for Implementation of Public Administration Reform“ have not been accompanied by a financial projection transparent to the public. Implicitly, it is assumed that a part of the funds for their implementation ought to be secured from the Republic's budget and a part from foreign donations. Unless the Government has a precise financial projection, the foreign donors certainly cannot efficiently plan dynamics of their support and are even less able to coordinate their activities.

Precise planning of policies, action plans for their implementation and observance of set deadlines and financial projections are of huge importance for using pre-accession funds of the European Union, both for this and other purposes. Continuation of previous practices will result in situation that development funds that have been placed at Serbia's disposal will remain unused and that processes of development and reform will not be aligned with the needs of development.

Human Resources...

From the entire analysis of capacities of public administration and local (self)-government, it is clear that human resource potential of employees is very weak. Numerous donors have so far supported a series of projects and activities that were supposed to help enhance knowledge and develop skills on which functioning of modern public administration and its reform, as well as the process of association with the EU, depend. Undoubtedly, it has been partially successful and employees in public administration and local self-government in the past six years have indeed acquired new knowledge and skills, including those relevant for the process of EU accession. All kinds of trainings without exception have been financed from the funds of foreign donors. It is difficult to estimate exact amount of resources spent for these purposes, but it cannot be less than 10 million US dollars. At the same time, human resources educated at majority of schools and faculties in the country have been completing their education in accordance with outdated curricula, having acquired minimal professional knowledge and skills, including knowledge of foreign languages and familiarity with the use of information technologies necessary for performing tasks related to processes of Europeanization and association with the EU and of general importance for the work in administration, as envisaged under Public Administration Reform Strategy. Dozens of millions of euros from the budget of the Republic of Serbia have been spent on their education. Many of them obtained employment in public administration and local self-government in the past six years and gave a relatively low professional input. They have been undergoing re-training courses which served more to fill the gaps in their regular education than to enable their further professional advancement. That meant spending new funds (this time those of foreign donors) to make them acquire skills that ought to have been acquired in the course of their regular education.

On the other hand, reform of higher education is under way but in no instance is higher education reform (nor reform of vocational education) functionally connected with the public administration reform. There are no efforts of the state as an employer to define competences and skills necessary for performing tasks in a reformed state administration; on the other hand, universities, as a part of reforms conducted, are currently defining their educational offer and educational outcomes, but without any correlation with the competences, knowledge and skills necessary for the work in the reformed administration.

The plan of public administration reform envisages setting up an institution for professional advancement of public officials. This institution is supposed to embody the concept of lifelong learning that requires constant professional advancement in the light of velocity of technological development and the fact that nowadays professional knowledge can very rapidly become obsolete. However, such an institution cannot and should not take over a responsibility to correct mistakes of the regular system of education which due to the failure to define labor market needs fails to meet demands of a modern employer or state as an employer.

In given circumstances, it is necessary to observe functional links between the goals of public administration reform and reform of education and to place these two processes into a correlation. The state and local (self)-government in the capacity of an employer obviously ought to specify and make available to educational institutions their demands in terms of competences and skills expected for the work in administration. This can help schools and faculties plan their reforms and adjust their educational offer to the requirements of the labor market and define their learning outcomes accordingly.

From the aspect of the process of EU accession and building capacities for performing these tasks, the state as an employer should, when it defines its requirements, rely on the internal document of the European Commission entitled *Main Administrative Structures Required for Implementing the Acquis*. In the same context, the National Higher Education Council should as soon as possible determine the national framework for qualifications, because this is a necessary prerequisite for successful work of the Commission for Accreditation and Quality Assessment of Higher Education. The National Education Council in its turn should be guided by the principles of the Copenhagen Process in proposing future educational policies.

Several faculties and universities have introduced the so-called 'European Studies' as a special form of specialization studies. It is undoubtedly the step that will partially in the future solve the problems related to capacities of public officials. However, it is of even greater importance to incorporate appropriate changes in curricula of regular undergraduate education, adjust it to new requirements of state as an employer and ensure acquisition of knowledge relevant for processes of pro-European developments.

It is only in these circumstances that future institutions for professional advancement of civil servants will be able to fulfill their basic function, namely to provide professional advancement rather than basic education of public administration employees.

On the basis of conducted analysis, it can be stated that educational institutions are in the process of reforming study programs. Additionally, there is a legal framework that enables good quality reforms that may result in meeting the requirements necessary for joining the European Union. In order to really accomplish that, it is necessary to additionally engage state bodies as well as educational institutions themselves.

Bearing in mind the entire complex of problems related to human resources and their development and the role of education in the development of these resources, the Fund has made a special report devoted to education and reform of education in Serbia.

RECOMMENDATIONS

1. The State bodies in charge of implementing the Strategy of Public Administration Reform should read once again, in a critical light, the Action Plan for Implementing the Strategy and try to project its implementation in practice in an efficient manner.

► That demands finding answers to numerous questions such as: rationale for criteria for setting the priorities, reasons for absence of their mutual ranking, incomplete or insufficiently defined necessary activities for attainment of these priorities (which for the time being boil down to adoption of normative acts), inconsistent assessment of current condition of implementation and failure to distinguish between activities carried out in order to accomplish the priorities and degree of their implementation. This document should certainly contain content analysis of obstacles which jeopardize attainment of elaborated priorities for a more successful completion of work related to Europeanization processes. These bodies could then act as necessary instigators of reforms in other areas on which entire reform of public administration depends.

► The same state bodies could at the same time develop the financial plan and dynamics for disbursement of resources. This would ensure that necessary resources for state administration and local self-government reform have been timely envisaged both under the Republic – and the province-level budget as well as under the local budgets; it would enable foreign donors, some of which already have programs for Serbia developed for the period by 2012 (some by 2014), to make adequate choice of their annual priorities so that the invested foreign assistance could produce results proportionate to their amount. This is particularly important from the aspect of full utilization of assistance funds of the European Union for the period 2007–2009.³⁹

2. The state as the employer must define its needs regarding the profile of experts employed in the public administration and the knowledge and skills which they should have for carrying out jobs in the public administration.

► For the field of education (and for rational disbursement of budget funds for this purpose as well as resources from foreign donations) it is very important to make a functional connection between requirements of the state as an employer (and other employers) and education. In this context, it is necessary for the state as an employer to specify demands in terms of expected competences and skills for the work in public and state administration. This will make it easier for higher and other educational institutions to define learning outcomes in a better and more functional way as a part of reform of education which is currently under way. Vitally related is also the requirement that National Education Council should as soon as possible define national framework of qualifications. Fulfilling both requirements is of essential importance for the upcoming work of the Accreditation and Quality Assessment Commission, because it is only on the basis of the said requirements that it will be able to ascertain operational standards and conditions for accreditation and to assess whether proposed study programs meet the set requirements.

³⁹ see: EU Comments to the revised Multi-annual Indicative Planning Document for the Republic of Serbia 2007-2009

► In the process of defining competences and skills, state bodies should be guided by key documents such as Public Administration Reform Strategy, National Strategy of the Republic of Serbia for Serbia-Montenegro's Accession to the European Union, Report on the Preparedness of Serbia and Montenegro to Negotiate Stabilization and Association Agreement with the European Union, as well as by European Commission's internal document *Main Administrative Structures Required for Implementing the Acquis*.

► The amendments to the Law on Higher Education (enabling the setting up of higher education institutions for vocational studies) consequently entail amendments to the Law on Civil Servants.

► The Feasibility Study to set up the Center for Professional Advancement of Public Servants has been made, but is poorer for counting out one significant source of cooperation and teaching staff. Namely, it fails to take into account capacities of the civil sector and existing forms of informal education. They would bring multiple benefits: they would partially accelerate professional advancement of public servants because it would mean that already developed resources and capacities of the civil sector can be put to use of public administration reform and they would be able to contribute to more rational disbursement of funds earmarked for this purpose. The institutions offering informal education could gain in importance in future activities if they orient themselves toward organizing programs of supplementary education and advancement (in-service education) for administration and public administration, offering flexible education programs accommodating changes and trends in this area at the European level, as well as current developments in the progress of European integration processes. Certainly, in order to create quality programs it is necessary to involve the state as an employer in creating of these programs by providing information about competences it requires from future experts to receive professional advancement through these programs.

The Government and public administration in Serbia: organization, election, competences, professional capacities

In the Republic of Serbia, the holders of executive power are the Prime Minister, the Deputy Prime Minister (one or more) and the Government consisting of ministers as administrative organs. The public administration is a part of the executive branch. The public administration consists of ministries, administrative authorities within them and special organizations. The law sets forth that some tasks of the public administration can be entrusted to the autonomous provinces, municipalities, towns, Belgrade Municipality, public enterprises, institutions, public agencies and other organizations, in that case exercising public competences on behalf of the public administration.

The next report will consider the overall structure of the public administration and the powers of particular bodies and organizations and present a comparative analysis of the types of competences of those bodies and the bodies recommended by the EU Commission to the EU member states⁴⁰ for the implementation of *acquis communautaire*.

The Government and the ministries

The Republic of Serbia has seventeen ministries: the Ministry of Internal Affairs, the Ministry of Finance, the Ministry of Justice, the Ministry of State Administration and Local Self-Government, the Ministry of Agriculture, Forestry and Water Management, the Ministry of Economy, the Ministry of Mining and Energy, the Ministry of Capital Investment, the Ministry of Trade, Tourism and Services, the Ministry of Foreign Economic Relations, the Ministry of Labor, Employment and Social Policy, the Ministry of Science and Environmental Protection, the Ministry of Education and Sports, the Ministry of Culture, the Ministry of Health, the Ministry of Religion, the Ministry of Diaspora.

The Ministry of Internal Affairs executes, among other things, public administration tasks concerning the protection of life, personal safety and security of property; state border security; border crossing control and the control of movement and staying in the border zone; alien residence; citizens' personal identification number; domicile and residence; identity cards; travel documents; international aid and other forms of international cooperation in the field of internal affairs.

The Ministry of Finance executes, among other things, public administration tasks concerning the republican budget; establishing the consolidated balance of public revenue and spending; the tax system and the policy of taxes, fees and other public revenues; the public spending policy; the foreign exchange system and foreign credit relations; the customs system; customs tariffs; money laundering prevention; fiscal monopolies.

The Ministry of Justice executes, among other things, public administration tasks concerning criminal legislation and economic crime legislation; obligations; inheritance; proceedings before courts of law (except for administrative litigation); the organization and work of judicial authorities and petty offence authorities; the legal profession and other judicial professions; the appointment and status of judicial office holders.

⁴⁰ Main administrative structures required for implementing the *acquis*, June 2004

The Ministry of State Administration and Local Self-Government executes, among other things, public administration tasks concerning the organization and work of ministries and special organizations; the Ombudsman; administrative inspection; administrative procedure and administrative litigation; local self-government and territorial autonomy and the appointment to local governments; the Republic of Serbia's territorial organization; public utilities.

The Ministry of Agriculture, Forestry and Water Management executes, among other things, tasks concerning the strategy and policy of water management and food industry development; the analysis of agricultural production and market; the balance of agricultural and food products; proposals of system arrangements and protective measures regulating imports of agricultural and food products; the protection and utilization of agricultural land; the production, the certification and control of seed and seeding material quality and turnover; launching the production of a particular product; turnover and imports of genetically modified organisms; the preservation and sustainable use of plant and animal genetic resources for food.

The Ministry also comprises the *Veterinary Department* – executing tasks concerning animal health protection; veterinary and sanitary control in animal production and in the domestic and foreign turnover of animals, animal products, raw materials and waste; the *Plant Protection Department* – executing tasks concerning the protection of plants against contagious diseases and pests; the *Republican Water Resources Department* – executing tasks concerning water management policy; multipurpose utilization of water resources; water supply (except for water distribution); water resources protection; the implementation of measures protecting water resources and planned water consumption rationalization; water regime organization; monitoring and maintenance of the regime of waters constituting or crossing the state border, etc.; the *Forestry Department* – executing tasks concerning forestry policy; forest preservation; the promotion and utilization of forests and wildlife; the implementation of measures protecting forests and wildlife.

The Ministry of Trade, Tourism and Services executes, among other things, tasks concerning market functioning; trade development strategies and policies; domestic trade; foreign commodity and service turnover; proposals of system arrangements and regulations in the field of special duties imposed on imports of agricultural and food products; the quality control of industrial non-food products in production and turnover and the control of services; the prevention of monopolies and unfair competition; the protection of consumers; the establishment and work of a commodity exchange and stock exchange agents; integral planning of tourist development; inspection control in the field of trade, tourism and services.

The Ministry of Foreign Economic Relations executes, among other things, tasks concerning the promotion of foreign economic relations, foreign trade policy and regime; foreign investment; the coordination of activities in the field of planning, ensuring and using foreign donations and other forms of foreign assistance; the promotion and monitoring of economic bilateral and regional cooperation; monitoring cooperation between republican authorities with international economic organizations and UN agencies.

The Ministry of Science and Environmental Protection executes, among other things, tasks concerning the system, development and promotion of scientific and research activities aimed at scientific, technological and economic development; policy and strategy establishment and implementation, as well as scientific, technological and development research programs; the policy and strategy of building an information society; the preparation of laws, other regulations, standards and measures in the field of electronic transactions; application of informatics and the Internet; nuclear energy research; nuclear facilities safety; radioactive material production and disposal (except in nuclear energy facilities).

The Ministry comprises the *Environmental Protection Department* executing tasks concerning the protection and sustainable use of natural resources (air, water, land, mineral raw materials, forests, fishes, plant and animal wildlife), the development of strategic documents, plans and research programs in the field of sustainable use of natural resources and renewable energy sources; environmental protection and promotion; the fundamentals of environmental protection; the protection of nature; ozone layer protection; monitoring climatic changes; transboundary air and water pollution; approving transboundary circulation of waste and protected plant and animal species; inspection control in the field of sustainable use of natural resources and environmental protection; ecological border control inspection.

The Ministry of Health executes, among other things, tasks concerning the health care system; mandatory health insurance and other forms of health insurance and health security benefit taxes; participation in elaborating and implementing international treaties on mandatory social insurance; health care organization; health inspection; alien health care; conditions for taking and transplanting parts of the human body; the production and turnover of medicines and medical materials, as well as inspection in this field; the production and turnover of narcotics; health and sanitary control in the field of protection against contagious and non-contagious diseases; state border sanitary control; other tasks prescribed by law.

On 5 June 2006 the Republic of Serbia's National Parliament brought a Decision on the Obligations of the Republic of Serbia's State Authorities in Exercising the Competences of the Republic of Serbia as the Successor of the State Union of Serbia and Montenegro. The Decision puts the Government under the obligation to adopt all necessary acts and takes all necessary measures within 45 days in order to exercise the competences the Republic of Serbia assumed from the state union of Serbia and Montenegro. The Decision explicitly mentions only the competences in the field of foreign affairs and defense, while no mention is made of other fields which were exclusively in the state union's purview, such as: human and minority rights, standardization, intellectual property, measures and precious metals. Although it has been four months since the Decision was passed, it was not followed by the adoption of necessary laws, above all the Law on Amendments to the Law on Ministries, which would regulate these issues.

The public administration comprises administrative authorities within the ministries and special organizations. Administrative authorities within the Government are the Secretariat General, services and working bodies, while the ministries consist of departments, inspectorates and directions. Finally, special organizations include secretariats and institutes.

Institutions for coordinating the EU accession process

In Serbia, the executive branch's authorities in charge of EU integration are the Republic of Serbia's European Integration Council, the EU Accession Coordinating Commission and the Republic of Serbia's European Integration Office. In the case of the legislative branch such body is the National Parliament's European Integration Committee.

The European Integration Council was set up on 4 September 2002 as a Government advisory body in charge of monitoring, considering, assessing and proposing measures related to the harmonization of legislation and institutional changes which concern the conditions and needs of accession to the European Union. The Council consists of the Prime Minister, the Deputy Prime Minister, the Government's Secretary General and eleven ministers. The Government

appoints the members of the Council and the President of the Council, appointed by the Government from the members of the Council, manages the work of the Council. The Council President has a deputy who is, on the Council's proposal appointed by the Government. The expert and administrative-technical jobs for the Council are carried out by the European Integration Office.

The EU Accession Coordinating Commission was established under the decision of the Serbian Government of 17 October 2002, as an operative body which should harmonize and direct the activities of republican authorities and organizations in the EU integration process. The 27-member Commission is appointed by the Government. Its members are mainly assistant and deputy ministers and its main tasks are proposing measures for initiating and promoting cooperation between republican authorities and organizations responsible for passing and implementing EU accession policies; establishing priorities and the most favorable ways of harmonizing Serbian policies and regulations with EU standards; proposing measures aimed at legislation harmonization, institutional changes and policy reforms in Serbia's purview, which are a condition for Serbia's EU accession, and, finally, monitoring the implementation of proposed measures.

The European Integration Office of the Government of the Republic of Serbia was established under the Government's decree of 8 March 2004⁴¹ as the successor of the European Integration Sector of the Ministry of Foreign Economic Relations. The Government appoints the Office Director, directly accountable to the Government and the Prime Minister, for a five year period. The Office's tasks are as follows: the EU association and accession strategy; the strategy for and encouragement and monitoring of the harmonization of Serbia's regulations with EU regulations and standards, as well as informing the European Union and the public thereof; coordinating the translation of the most important EU regulations into Serbian and coordinating the translation of Serbia's legislation into English; extending assistance to ministries and special organizations in harmonizing Serbian regulation with those of the EU; monitoring the execution of obligations of various ministries and special organizations in the EU association and accession process; harmonizing Serbia's institutional potentials and training personnel in the field of EU integration; cooperating with specialized legal institutions; preparing reports for the European Union on macro-economic developments in the Republic of Serbia; analyzing the economic aspects of harmonizing Serbia's regulations with EU regulations and standards; participating in EU technical assistance projection coordination; promoting activities in the EU integration process and cooperating with specialized international and national economic institutions.

The Office prepares acts by which the Government supervises, directs and coordinates the tasks of the ministries and special organizations related to: EU association and accession; the manner in which the public is being informed of the EU association and accession process. The Office extends technical support to and organizes meetings of the European Integration Council of the Republic of Serbia, manages the work of the EU Accession Coordinating Commission and offers logistic support to the European Integration Committee of Serbia's National Parliament. This is, beyond doubt, the most active institution in the EU integration process and a focal point for coordinating all activities in the field.

Special European integration units were set up in most ministries. They are tasked with including the ministries in all European integration activities in a comprehensive fashion. Unfortunately, the units are not organized in a uniform manner in all ministries, which results in uneven activities of some ministries and complete passivity of others.

Harmonizing domestic regulations with relevant European Union regulations is by far the most complex and difficult task in the European integration process. As of September 2003, the ministries and each public authority or organization

⁴¹ *Official Gazette of the Republic of Serbia*, no. 25 of 2004

have been under the obligation to issue a Declaration of Agreement concerning *acquis communautaire* when preparing a legal project. The competence of the persons in charge of the matter, in other words their professional skills and knowledge of *acquis communautaire*, are questionable.

In its Resolution on Serbia's EU Accession, the National Parliament of the Republic of Serbia put the Serbian Government under the obligation to inform the Parliament every three months of the planned and executed obligations and of the implementation of all programs and activities required for the acceleration of the Republic of Serbia's accession to the EU. This communication is maintained through the National Parliament's European Integration Committee and considered minimum cooperation and coordination between executive and legislative power. It is quite certainly necessary to promote this cooperation, particularly when it comes to executive power's cooperation with legislative power.

Competences and procedures in policy implementation

In Serbia, the central Government body is the Secretariat General as a general service responsible for professional and other affairs for the benefit of the Government and its working bodies. The Secretariat also discharges tasks for the benefit of the Prime Minister's Office and the Deputy Prime Minister's Office. The Secretariat General, among other things, prepares acts by which the Government supervises, directs and coordinates the work of the ministries and special organizations and sees to the implementation of these acts. These are the Government's acts entrusting the ministries and special organizations with specific tasks. If the ministries and special organizations do not pass a regulation within a deadline prescribed by law or by some general act brought by the Government, the Secretariat informs the Government thereof and proposes the deadline within which the regulation should be passed. The Secretariat also proposes deadlines for passing regulations which are not prescribed by law or a general act brought by the Government; ensures the participation of the Government and its representatives in the National Parliament's work, as well as cooperation with the President of the Republic, other organs and organizations, other states and international organizations; processes materials for the sessions of the Government and its working bodies; prepares and monitors the sessions of the Government and its working bodies and other Government sessions; is responsible for the use of resources at the Government's disposal; prepares acts by which the Secretary General exercises his authority over the Directors of Government services who are accountable to him, and sees to the implementation of these acts. The Secretariat General is responsible for administrative, informational and supporting and technical activities for the benefit of the Prime Minister's Office and the Deputy Prime Minister's Office.

The Prime Minister's Office is in charge of professional and other affairs; among other things it prepares measures by which the Prime Minister leads and directs the Government and coordinates the work of Cabinet members; prepares mandatory instructions and tasks entrusted by the Prime Minister to Cabinet members, the Secretary General and the Directors of Government services who are accountable to him, and sees to their implementation; takes care of the Prime Minister's cooperation with the National Parliament, the President of the Republic, other state authorities, representatives of other states and international organizations. The Prime Minister's Office has similar competences. However, perhaps we should point out the preparation of measures by which the Deputy Prime Minister directs and coordinates the work of the ministries and special organizations in the fields defined by the Prime Minister, as well as seeing to their implementation; insisting on the implementation of projects in the purview of several ministries and special organizations, headed by the Deputy Prime Minister under the Prime Minister's authority.

Executive power's acts

The Government of the Republic of Serbia passes the following acts: decrees, the rules of procedure, decisions, resolutions and conclusions, the budget memorandum, strategies and declarations.

Decrees further elaborate a relation regulated by law, in accordance with the purpose and objective of the law.

The rules of procedure regulate the Government's organization, manner of work and decision making.

Public enterprises, institutions and other organizations are established and measures undertaken by *decisions*; decisions also regulate issues of general importance and determine other issues that the Government may regulate as established by law or decree.

Appointments, nominations and dismissals, as well as administrative matters and other individual issues are regulated by *resolutions*. The Government passes conclusions in the absence of other acts.

The Government adopts *the budget memorandum* containing basic objectives of public finance and macroeconomic policies.

The Government's *development strategies* assess the situation in the fields the Republic of Serbia is competent for, and establish measures to be taken for the Republic's development.

Declarations express the Government's position on an issue.

Decrees, decisions, the rules of procedure, the budget memorandum and resolutions annulling and abolishing public authorities' regulations are published in the "Official Gazette of the Republic of Serbia".

The Prime Minister passes decisions and resolutions. The Prime Minister passes a decision to designate the Deputy Prime Minister who is going to replace him when he is absent or prevented from discharging his duties, as well as to determine the fields in which the Deputy Prime Minister directs and coordinates the work of the ministries and special organizations, to authorize the Deputy Prime Minister to head a project in the purview of several ministries and special organizations, assign to the Deputy Prime Minister powers vis-à-vis the Directors of Government services accountable to him, authorize a Cabinet member to assume the competences of another Cabinet member whose dismissal he proposed or whose term of office is terminated, define the tasks of a minister without portfolio, set up the Prime Minister's councils and, finally, to appoint and dismiss the chairman and members of the Prime Minister's council.

Draft decrees and decisions are prepared and submitted to the Government in the form of legal provisions with a rationale. The provisions of draft decrees must also contain deadlines within which regulations and other general acts by which laws and decrees are implemented, are to be adopted. Draft resolutions are prepared and submitted to the Government with a disposition and rationale. The drafts of the budget memorandum, development strategies and declarations must contain a rationale for all required issues. Furthermore, analyses, reports, information and draft platforms for international meetings, the draft conclusions of international treaties and similar documents, must contain both a rationale and a conclusion proposed to the Government. The rationale of draft decrees or decisions must contain: a constitutional or legal basis for passing the act; reasons for passing the act and within them particularly: problems to be solved by the act, objectives to be achieved, possibilities of solving the problem without passing the act and an explanation as to why the best solution should be to pass the act; the explanation of basic legal institutes and individual arrangements; the assessment of financial means required for the act to be implemented; reasons for which it is proposed that the act enter into force before the eighth day from its publishing in the "Official Gazette of the Republic of Serbia"; the review of the amended provisions of the act in force (the amended text is deleted and the new text is inserted in capital letters).

For the acts passed by the Government it is necessary to obtain the opinion of the Republican Legislation Secretariat and the Finance Ministry, whereas for draft laws it is also necessary to obtain the opinion of the European Integration Office. The opinion of the Justice Ministry is necessary if the act regulates criminal offences, economic crime or if it establishes or withdraws court jurisdiction or prescribes the subject matter jurisdiction of courts. The opinion of the Republican Legal Office is required if the act regulates the protection of the property rights and interests of the Republic of Serbia or if it incurs contractual obligations for the Republic of Serbia. Opinions are also obtained from the public authorities competent for the issue the act refers to.

The ministries and special organizations adopt the rules of procedure, orders and instructions. The rules of procedure elaborate specific provisions of the law and Government regulations. Orders ordain or ban particular behavior in a situation of general importance. Instructions define the manner in which some provisions of the law or another regulation should be implemented. These acts are published in the "Official Gazette of the Republic of Serbia".

The openness, transparency and accountability of the public administration

Public authorities are obliged to make their work accessible to the public under the Law on Free Access to Information of Public Importance. The new Constitution guarantees access to the information in possession of state bodies to everybody. Therefore, the public bodies inform the public through the media or in some other appropriate way. The authorized officer preparing the material to be published is also responsible for its correctness and publishing in due time.

Public authorities are obliged to inform the citizens in an adequate manner of their rights, obligations and the ways of implementing their rights and obligations, as well as of their purview, the public authority supervising their work, of the way in which they can be contacted, and of other information important for the publicity of their work and public relations. Public authorities are obliged to make this information available over the phone as well. The principle of publicity should be further promoted, and for this to happen it is not sufficient only to regulate it legally - it should also be translated into practice. It is precisely the citizens as the beneficiaries of the public administration who could make the greatest contribution to the publicity of work with their objections and suggestions which would be recorded, checked and acted on.

The Republic of Serbia is accountable for any damage inflicted on natural and legal persons by public authorities on account of their illegal or irregular work. This is why civil servants bear great responsibility for the legal discharging of their duties and adopting decisions on the rights and obligations of citizens.

The work of a public authority is subject to the control by the Government and, indirectly, by the National Parliament which supervises the work of the Government and its members. The judicial supervision of public authorities is exercised through administrative litigation.

The control of the work of the public administration is exercised through internal and external supervision.

Internal supervision means the control exercised by public authorities over other public authorities and holders of public authority in discharging the tasks entrusted to them. Internal supervision involves the supervision of work, inspection supervision, administrative inspection and other forms of supervision. The supervision of work means the supervision of legality and functionality; the control of the legality of work should establish if a public authority observes the law, other regulations and general acts, whereas the control of functionality should establish if a public authority works efficiently and economically and if its organization is optimal. The purpose of this control is to ensure legality,

regularity, efficiency and optimal functionality in the work of the public administration. In view of the fact that the law regulates only the control of work, a Law on Inspection Control should be passed as soon as possible.

External control means the control of the legality of work of the public administration and it is exercised through administrative and judicial control. The authorities competent for conducting administrative procedure or deciding in administrative matters, must proceed from the fact that they are obliged to efficiently enable the parties to exercise and protect their rights as easily as possible. The public administration must not be an end in itself and should function as a public service protecting the legal rights and interests of all entities. The Law on Administrative Procedure establishes the basis of administrative procedure which must be legal, must enable the parties to protect and exercise their rights and legal interests in the easiest possible way, ensure that the authorities conducting the procedure efficiently and successfully secure the exercise of rights and legal interests, that they conduct the procedure without delay and incurring the lowest possible expense for the party and others involved in the procedure. However, these provisions are often breached in practice and parties wait for a long time to exercise their rights. One of the basic questions here is: which rights and instruments are at the disposal of a citizen/party whose rights are breached by the irregular or illegal work of the public administration? It should be emphasized that the external control of the public administration is exercised through administrative procedure and administrative litigation.

In administrative procedure, the second instance administrative authority controls the work of the first instance authority on the basis of a lodged legal remedy. The second instance authority controls both the legality of decisions passed in the first instance and the functionality of the work of lower instances. Apart from the regular legal remedy – complaint, there are extraordinary legal remedies – the renewal of the procedure and special cases of annulment, abolishment and reversal of a decision, namely the reversal and annulment of decisions concerning administrative litigation, request for the protection of legality, annulment and abolishment arising from official supervision, the cancellation and reversal of a legally valid decision with the consent or at the request of the party, the extraordinary cancellation of a decision and declaring a decision null and void.

The judicial control of the public administration is exercised in administrative litigation conducted, under the present Law on Courts, before the Supreme Court of Serbia. The establishment of an Administrative Court which will be in charge of administrative litigation, is envisaged for January 2007. Administrative litigation concerns the legality of an administrative act passed by an administrative authority or some other organ exercising public authority, in which a right or interest of a person is decided. However, a person may request court protection only after the completion of administrative procedure and upon addressing the second instance administrative authority first.

The status of civil servants

The key legal act which regulates this field is the Law on Civil Servants⁴². This law regulates the rights and obligations of civil servants in a completely satisfactory way. Apart from this law, the basic law predicted by the Public Administration Reform Strategy, which the Government of Serbia adopted in October 2004, is the Law on the Public Administration⁴³. In addition to these laws, the issue of the position of civil servants is also regulated by the Law on the Government⁴⁴,

⁴² *Official Gazette of the Republic of Serbia*, nos. 79 of 2005, 81/2005 and 83/2005.

⁴³ *Official Gazette of the Republic of Serbia*, no. 79 of 2005.

⁴⁴ *Official Gazette of the Republic of Serbia*, nos. 55 of 2005 and 71/2005.

the Government Rules of Procedure, the Decree on the Government's Services, the Decree on the Prime Minister's Office, the Decree on the Government's Secretariat General, the Decree on Earnings and Other Income of Civil Servants and Other Elected, i.e. Appointed Persons and the Regulations on the Internal Structure and Systematization of Job Positions in the Service. Besides those legal acts, additional information regarding the position of civil servants can be found in the Law on Ministries and the Law on Employment in the Public administration. Even though the Law on General Administrative Procedure and the Law on Administrative Litigation exist, their amendments have been in preparation for some considerable time and the drafts of those laws, which satisfy all European standards, already exist, the adoption of these laws certainly presents one of the legislative priorities in this field. In the case of issues which regulate employees' incomes, it should be insisted on the urgent adoption of the Law on Civil Servants' Salaries. Of course, the adoption of by-laws, which insure the implementation of the laws from this field, is both essential and urgent.

According to the Law on Civil Servants, a civil servant is a person whose post consists of work in the field of civil servant bodies, courts, public prosecutor's offices, the Republican Legal Office, the services of the National Parliament, the President of the Republic, the Government and the Constitutional Court. A distinction should be made between civil servants and members of Parliament, the President of the Republic, the Constitutional Court judge, members of the Government, judges, the public prosecutor and his deputies and other persons who are elected to their positions by the National Parliament and appointed by the Government and who hold official positions pursuant to special regulations. In contrast to civil servants, the contractor is a person whose working position consists of providing technical support to the public administration body. The employer of both civil servants and contractors is the Republic of Serbia.

Depending on the complexity of their work, authority and responsibilities, the posts held by civil servants are divided into positions and contracted working positions (this division does not apply to the police, customs and tax officers as well as to those civil servants who are entrusted with security tasks in penitentiaries). A position is a post which is acquired by appointment by the Government or other state organ or body, and in which the civil servant has the authority and responsibility associated with the management and coordination of the work in the state authority. The Government appoints Minister assistants, Ministry secretaries, the director and his assistant in the administrative authority within the ministry, the director, deputy director and the assistant to the director in special organizations, the director and the deputy director in the Government service, the director, deputy director and the assistant to the Government Secretary General, the Republican Legal Officer and his deputy and the head of the administrative district. The positions in courts, public prosecutor's offices and other civil state authorities are determined by the Supreme Court of Serbia and the Republican Public Prosecutors' acts.

Contracted posts are all those posts which are not positions, and they are classified by titles, depending on their complexity and responsibilities, required knowledge and abilities and working conditions. Titles include senior advisors, independent advisors, advisors, junior advisors, associate and junior associate, officers and junior officers.

The employment of civil servants is certainly an issue of special importance considering that this process insures the quality selection of cadres in the public administration.

The internal structure and the systematization of posts in the state administration is determined by Government decree. The posts, required number of civil servants and working conditions for each post in the public administration body are determined by the regulations on the internal structure and the systematization of posts in the public administration body.

The contracted posts are filled by transfer from the same or different state authority, if the selected candidate is already a civil servant, or by employment if the candidate was not previously a civil servant. The position is always filled by appointment. The ways of filling contracted posts are, primarily, the transfer of the civil servant from the same state body, with promotion or without it, or internal or open competition for the post. Internal and public competition is carried out by a commission. The participant in the open competition has the right to appeal if he thinks that he fulfils the conditions of employment.

When the position is filled by the Government, it is done by internal or public competition, which is carried out by the competition commission appointed by the High Employees Council. Appeal against the Government decision is not allowed, but administrative litigation can be instituted.

A civil servant is employed for an unlimited period of time, apart from in cases when the employment period is determined by law because of the replacement of an absent civil servant, because of the temporarily increased scope of work, in office posts during the official's mandate and because of the training of trainees during the training period. A civil servant ends his term of employment when the time of his appointment has passed, if he submits written notice, if he begins duty in a state body, if his position is withdrawn or if the retirement conditions, or his written resignation or release from duty go into effect. Civil servants are guaranteed by law permanence of duty, the possibility of advancement according to the expressed capabilities and achieved working results, as well as adequate consistence, transparency and impartiality in the remuneration system.

The Executive Council of AP Vojvodina and the provincial administration: organization, election, competences, professional capacities

Executive Council and administrative authorities

The executive power at provincial level is represented by the Executive Council consisting of the president, the vice president and the members of the Council, and the heads of the provincial administrative authorities appointed by an Assembly Decision. The Executive Council may set up committees and commissions as its standing working bodies, i.e. councils, commissions, working groups, expert groups etc. as well as interim working bodies. The secretariats and other administrative authorities carry out the work of the provincial administration. There are 17 provincial secretariats:

The Provincial Secretariat for Finance organizes and monitors specific issues from the fields of finance and economy; monitors the system of public revenue and expenditure; prepares the final budget calculations and reports on the implementation of the budget; carries out the investments of the budgetary liquid assets pursuant to the law; monitors the crediting-monetary policy as well as the banking operating system and the property and personal insurance system and reports to the Executive Council regarding those issues.

The Provincial Secretariat for Agriculture, Water Resources and Forestry carries out work in those fields including hunting, the food industry, veterinary medicine, plant conservation and fishing, as well as agricultural cooperatives and the development of rural areas; establishes expert projects for the improvement of agricultural production; prepares acts to be adopted by the Assembly and the Executive Committee which refer to those issues within the Secretariat's competence.

The Provincial Secretariat for Regulations, the Public Administration and National Minorities carries out work which relates to: the improvement of the organization of the work of the Province's administrative authorities, qualifying examinations for judges from AP Vojvodina, the appointments and dismissals of standing court interpreters and maintaining the court interpreters register; the implementation of the rights of national minorities pursuant to the Constitution, the Statute, the law and other regulations in AP Vojvodina; the protection and improvement of the collective and individual rights of national minorities in AP Vojvodina; cooperation and support for national minorities civil associations; regulating the official use of the languages and alphabet of the national minorities in AP Vojvodina; the establishment of the position of the Province's civil defense attorney (the Ombudsman) as well as his authority and its implementation.

The Provincial Secretariat for Science and Technological Development carries out duties which refer to the organizational structure of science, scientific potential, scientific infrastructure; programs in the fields of science and technological development, the scientific-technological information system, the transfer of knowledge etc.

The Provincial Secretariat for Local Self-Government and Inter-Municipal Cooperation monitors the development of the local self-government system on the territory of AP Vojvodina and establishes cooperation with municipalities; records the cooperation between the local self-government units from the territory of AP Vojvodina with the local self-government units in the country and abroad; provides expert support to municipalities.

The Provincial Secretariat for Labor, Employment and Gender Equality collects and analyses data from the employment field, expresses opinions and proposes measures in the fields of labor and employment; promotes the concept of gender equality; cooperates with governmental and non-governmental organizations on the achievement of the policy of equal opportunities and establishes mechanisms for gender equality.

The Provincial Secretariat for Environmental Protection and Sustainable Development adopts environmental protection programs for the territory of AP Vojvodina pursuant to the main directions established on the level of the Republic and regulates certain issues of protection and development of the environment of interest to the Province; monitors the situation in the environment; issues concord on the analysis of the influence of works and facilities on the environment, carries out managerial supervision in all fields of environmental protection, apart from the fields of hazardous materials and the protection of the biodiversity and implements measures for the elimination of illegalities.

The Secretariat for Regional and International Cooperation was established in 2002 and carries out duties which relate to international cooperation between the Province and the territorial units of other countries, particularly with the “Danube – Kriš – Moriš – Tisa” Euro-region and the regions of other countries; coordinates the activities of local self-government on establishing international cooperation; studies the work of international, and especially European integration and provides concrete proposals for cooperation with them.

In April 2006, the Executive Council established the *European Affairs Office*,⁴⁵ for the monitoring, study and implementation of the integration processes and the development and strengthening of the AP Vojvodina’s institutional capacities, with the aim of the faster accession of the Republic of Serbia into the main European political and economic streams. The Office is an independent department within the Council. In addition to unifying and directing the activities of the Province’s institutions in the process of European integration and coordinating activities with the Government of the Republic of Serbia European Integration Office, the Office’s competence also includes: cooperation with international and European bodies and institutions; education in the field of European integration; activities referring to the use of European structural and development funds; as well as the promotion of mutual European values and ideas in the media and the wider public.

For the work and functioning of the executive power in the Province, apart from the republican legal acts, the Statute of the Autonomous Province of Vojvodina⁴⁶, the Law on Establishing the Specific Competences of the Autonomous Province⁴⁷ and The Rule on Procedure of the Autonomous Province of Vojvodina’s Executive Council⁴⁸ are also of importance.

⁴⁵ The Decision on the Establishment of the European Affairs Office, *AP Vojvodina Official Gazette*, no. 4/06.

⁴⁶ *The Autonomous Province of Vojvodina Official Gazette*, no. 71 from 1991.

⁴⁷ *Official Gazette of the Republic of Serbia*, no. 6 of 2002.

⁴⁸ *The Autonomous Province of Vojvodina Official Gazette*, nos. 5 of 2002, 2/2003, 15/2003. and 4/2005.

At provincial level the Executive Council adopts *decisions, orders, instructions, resolutions and conclusions*. The proposal for a general act to be passed by the Executive Council should be submitted to the Executive Council in the form in which it is to be passed with a rationale containing a legal base; the reasons for the adoption of the act; an explanation of the basic legal institutions and individual legal arrangements; an estimate of the amount of the financial resources required for the implementation of the act and the general interest because of which retroactivity is proposed; a general act consists of the regulations for which retroactivity is predicted; the reasons for passing acts under urgent procedure if urgent procedure is proposed, with a statement of the possible endangerment to life and health and the work of bodies and organizations which would occur if the acts or regulations were not passed under urgent procedure; the reasons why it is proposed that the general act should take effect before eight days since its announcement; a review of the act's provisions to be changed, i.e. supplemented (the review of provisions which are to be changed is prepared so that the part of the text to be changed is marked with a broken line – hyphens – over the text, and the new text which is to replace or amend the existing one is written in capital letters).

In the preparation of the proposal of the act to be passed by the Executive Council it is obligatory to procure the opinions of: the provincial Secretariat for Regulations, Public Administration and National Minorities concerning the harmonization of the act with other regulations and the legal system; the provincial Secretariat for Finances when the provision of financial resources is required for the implementation of the act; the provincial Legal Office when the issue concerns the protection of the Province's property rights and interests, i.e. when the act incurs contract liabilities for the Province and the ethnic minorities national councils when the act refers to the official use of the language, education, culture and information in the language of the national minority. The Republican Ministries monitor the implementation of the general acts which the Province passes within its sphere of activity.

Strategy of the public administration reform: a critical review

The basic core of reform course of the affirmed strategic goals of development of the Republic of Serbia consists of: the process of democratization, sustainable economic development and the system of the rule of law. Public administration reform is one of priority areas within this framework. The fact is that the mentioned systems are mutually dependent, that they foster as well as limit one another and therefore in a very direct way determine quality, effectiveness, efficiency and frugality of public administration system.

The national strategy for EU accession emphasizes the need for public administration reform, however it is worth noting that limitations of the past as well as the present, and *the current political, economic and situation in the legal branch* actually impede essential, more rapid and better quality reform moves in key areas, in functions and activities of the state, economy and society. Furthermore, one should bear in mind that assessment of the current condition and orientation of developmental course of modernization of public administration will largely depend on effects of other complementary programs such as European partnership, Strategy of Sustainable Development, Millennium Development Goals, Strategy of Development of Information Society, Poverty Reduction Strategy etc.

Firstly, there is no doubt that the value, quality and dynamics of the process of political democratization in Serbia depend on entire series of characteristics such as: limited experience with truly democratic contents and forms and significantly richer heritage of formal and fictive democratic indications tainted by authoritarian and totalitarian government; bad and fresh memories of forceful taking and usurpation of government, unfair elections and absurd post-election coalitions, as well as contradictory interpretations of the origin, character and identity of deputies' mandates; numerous crisis-ridden features of Serbian parliamentarism characterized by wrong understanding and misuse of parliament as an institution, exaggerated role of executive government and undermining of judicial power; maintenance and reinforcement of symbiosis of state and party bureaucracy; idea of political pluralism compromised by meaningless proliferation and aberration of political parties; survival of ideological confusion both in relation to the international context and in relation to local political landscape, mutual confrontations and intolerance; rampant destructive nationalism and aggressive tribalism; closeness, inferiority and xenophobia which as a rule spawn resistance to changes, especially those promoted by developed world, consequently contributing to creation of a surreal notion of one's own mission and role.

Secondly, economic recovery, after numerous barren years and numerous unprecedented devastations that have blocked key developmental potentials, requires almost alarming re-orientation of economic strategy and politics so that Serbian economy could in time become compatible with principles and tenets prevailing in the EU. The overall potential and capacity of state depend on the success of economic transformation, on raising institutional, organizational, business, managerial and technological capacities of the economy and boosting of positive developmental tendencies. For this purpose, namely for re-conceptualization of the economic system, it is necessary to take the following steps: doggedly prepare for definitive crossing the Rubicon toward market economy, attempts at which have been frustrated for several decades now; solve the riddle of multi-ownership relations structure with an appropriate precedence given to private property both through its devolution from sectors of state and socially-owned property, (re)privatization and creation of new property arrangements unknown so far or insufficiently applied in our country; and consequently, neither creation of market economy nor establishment of new ownership structures are possible without restructuring of economic branches, fields and capacities, which remains as an urgent prerequisite in order to establish real market economy; and gradually stabilize macro-economic flows on a higher level with the help of new institutes and stable institutional frameworks.

The special impulse to economic transformation of the Serbian economy is expected to be provided by improving business and investment climate: measures of more extensive and intensive privatization; fostering direct foreign investments by removing barriers that have aggravated and demotivated coming and engagement of foreign investors⁴⁹; better cooperation between business and government; greater inclusiveness of business ambience for all interested, domestic and foreign, economic subjects; bigger and better use of forms of regional economic cooperation, cross-border cooperation, exchange of good experiences and neighboring programs.

⁴⁹ Let us mention the document Draft Strategy of Fostering and Development of Foreign Investment, by the Ministry of International Economic Relations (Sector for Foreign Investments) to illustrate new advancement of developmental strategic management. The document lists four basic reform directions to restore Serbia on the economic map of Europe: reform of regulations; boosting institutional capacities and development of cooperation on the state and municipal level – in order to promote business; activities and initiatives to promote competitiveness and campaigns in the country aimed to raise awareness about importance of foreign investments and clearly focused international marketing strategy.

The initial Agreement on Stabilization and Association of Serbia and Montenegro with the European Union envisages considerable innovations in contents and forms of mutual cooperation that will have direct repercussions on developmental conception and dynamics of the Serbian state, economy and society. In this, incipient stage, one should certainly mention basic lines of cooperation: establishment of permanent political dialogue (Serbia – the Union) which indicates that there is a need for political consolidation in Serbia in order to boost its democratic values; harmonization of domestic legislation, certainly in the economic sphere (protection of competition, public procurement, protection of intellectual property etc) with the *Acquis communautaire*, practically with the entire legislation of the European Union; establishing links and harmonization with Union sector policies, primarily in areas of judiciary and internal affairs; stimulating free flow of capital, goods, services and people, in the first stage by legalizing compromises, making interim, *ad hoc* solutions; laying foundations to a regional free trade zone South East Europe with the Union, possibly by using CEFTE framework (Central European Free Trade Agreement) by setting up duty-free and/or limited customs approach to mutually but asymmetrically extended market.

Thirdly, innovative, stable and transparent legal and regulatory system, establishment and observance of the rule of law ought to provide extremely important support to European integration processes. Several complementary stages should be distinguished in this regard: making and enacting legal regulations; making and enacting sub-acts and regulatory norms; implementation of acts and sub-acts; evaluation of effects of normative innovations and monitoring the process of harmonization of local regulation compared to legal standards and accomplishments of the legal system and processes prevailing in the Union as well as adoption and ratification of corresponding international legal acts.

The policy of establishing and reviving the system of the rule of law and ensuring legal security relies on overcoming a series of conceptual, organizational and operational weaknesses and latent and/or manifest threats. Without a Constitution which facilitates the transformation of a society in transition – and the new Serbian Constitution is certainly not an instrument which hastens radical changes – the whole legal (re)construction of the system must slow down.

The legal system is faced with the need for serious reforming owing to its low effectiveness, insufficient efficiency and lack of financial prudence. Moreover, its institutions have not nearly adapted themselves to serve and provide quality services to citizens, thus making essential break with traditionally alienated, bureaucratized and inefficient state. Its services, because of huge dependency on centers of political power, are insufficiently transparent and responsible, insufficiently objectified and standardized, which is an essential prerequisite for citizens to gain trust in legal system institutions. Again, when legal system is concerned, what has been observed is the lack of integrated planning, budgeting and evaluation of effects which would enable more real and reliable assessment of its functional capacities. The remnants of outdated and bad quality legal norms reflect on and maintain the state of legal anomy and numerous and various anomalies, confusion and ambivalence. Such a situation favors relativization of ethical norms and moral principles and hinders eradication of socio-pathological phenomena and behavior. On the other hand, recognition of this handicap by those who are supposed to guard the legitimacy and legality of the system, has strong repercussion effects on all other social spheres. Finally, boosting capacities of (legal) institutions implies better multiple preparedness of human resources of all professions both through their education in educational institutions and through internal, practical training activities. The expected support to this course of action is provided by the greater advent of information technology which creates, in addition to great rationality, exactness, administrative transparency and speed, new unprecedented relations between government and citizens. This dimension will only gain in importance in the close encounter of Serbia with the Union when these relations enter their advanced stage.

The quality of reform moves in public administration

The Report on the Preparedness of Serbia to Negotiate on Stabilization and Association Agreement with the European Union⁵⁰ and its part which concerns public administration in narrower and literal sense succinctly states that four major tasks have partially been completed: firstly, the document has been adopted on public administration reform strategy in the Republic of Serbia; secondly, a number of important reform laws has been adopted; thirdly, preliminary tasks to rationalize the number and role of management workers in central and local administration have been performed; and fourthly, institutional capacities for coordination of tasks concerning EU accession have been enhanced and reinforced. This statement requires further qualification with respect to the quality of tasks performed.

The presented arguments concerning the state of our politics, economy and the legal branch undoubtedly provide a more realistic foundation for ongoing and future institutional and functional changes and improvements. To change the character and nature of power, to create a self-sustainable economic potential, to ensure legal security, create a new philosophy of managing public affairs and a system of value adjusted to the needs of new times remains only an inventory of high goals if capacities of legislative, executive, managerial and judicial power are meager. This generates a need for accelerated reconceptualization and reinstitutionalization of the system, largely also due to the broached European integration processes, in which the role of state/public administration is extremely important.

As in other countries in transition, broached reform processes in Serbia confirm once again that it is not simple to adopt and master contemporary and global tendencies when it comes to building and effectuating structures of institutions and organization of the state, economy and society. We would like to mention here the tendencies related to expected transformation of state administration into a public service: the state imposes self-limitations on its functions and activities while at the same time boosts effectiveness and efficiency in its implementation; supports creation and reinforcement of a public sector with the assistance of the private sector by setting up public-private partnerships; strengthens management as a service job rather than a lever of emanation of power, implying changes in the nature of relations between state and citizens; deconcentration, decentralization, devolution, delegation and deregulation of government, functions and competences; change of conception of public administration, its contents and forms, participants and authorities, procedures and proceedings; dissemination and strengthening of multiple and multi-directional control mechanisms in the public sector and public administration; accelerated dissemination and intensifying of the role of information technology in modernization and rationalization of work and decision-making of bodies and organizations of public administration; creation of new profiles of administrative workers, with new knowledge, ethics, motivation and loyalty.

Undoubtedly, these tendencies corroborate the need for comprehensive innovations in the system of government, public administration and management. Among the most important initiatives expected to change the image of Serbia over time are certainly consolidation of state substrata of Serbia in all its state-building competences; change of matrix of territorial and functional organization of government by creating new administrative map of Serbia; change of the relationship between the centre and the periphery of the system; reinforcement of regional administration and local self-government through aforementioned global tendencies and principles of subsidiarity; affirmation of the policy of new public management, combining and using good managerial advantages of administration and business and implementation of versatile solutions, means and methods for urgent rationalization and modernization of the system of public administration and process of public management.

⁵⁰ Ibidem, Brussels, April 12, 2005

In the adopted document The Strategy of Public Administration Reform of the Republic of Serbia, the following principles of decentralization, depoliticization, professionalization, rationalization and modernization are important for creating a new political order, new public administration and new public management.⁵¹

The principle of decentralization represents one of key prerequisites and values of real democratization of political, economic and legal system by changing the nature of relations among various levels of organization of government. This change legally enables and facilitates the principle of division of power by re-distributing competences and division of labor among central and narrower territorial levels of government organization. This transformation certainly does not stem exclusively from re-arrangements of power and government in a society, but also from the altered position and role of citizens, their participation and impact on political and public life. It is at the same time a requisite condition for new utility and service function, for support service of state/public administration. Finally, decentralized administration of public sector in general, judging by experiences of modern and developed democracies, functions more efficiently, effectively and economically, and its self-management forms in local communities are more suitable for citizens' participation.

The policy of decentralization is manifested in several complementary variations: a) devolution of government as the fullest form of decentralization which implies de-allocation of state power by granting exclusive competence to local authorities; b) de-concentration of government, implying transference of competences of central government to local government branches, which, due to effects of transferred jurisdiction, can have retroactive effect on central government to boost general efficiency of (administrative) system; c) delegation of power is a model which stands between devolution and de-concentration of government and enables local government to directly perform strictly defined public offices. On the other hand, control functions and an obligation to ensure conditions for realization of delegated tasks remain firmly in the hands of the central government.

However, it is important to observe that outcome and success of the process of decentralization largely depend on the extent to which several mutually connected prerequisites have been met. Firstly, they depend on the quality and potentials of the Serbian state, its multi-dimensional, political, economic and legal consolidation and functionality; secondly, on the qualitative (essential) and quantitative (factual) values of functional-territorial organization, number and level of administrative units, its interdependence, relations of competences and responsibilities of government and self-government. Thirdly, it depends on the level of development of local communities and capacities of the local self-government assessed both in terms of parameters of objective resources (economy and infrastructure) as well as in terms of subjective resources (professionalism and ethics of administrative workers). Fourthly, to increase effects of rational application of the principle of subsidiarity, it is necessary to effect broader co-existence of forms of decentralization, with the form of economic-financial decentralization being one of the most decisive for successful revitalization of the whole system.

The principle of de-politicization has a meaning and function broader than just to stimulate general direction, content and form of reforms in state/public administration and its transformation from a system of arbitrary government to a system of public service. What is at stake is change of relations and sources of influence of politics and economy, law and politics, economy and law. The process of creating new political and administrative elite, who will necessarily be capable and sufficiently inspired to gradually change the nature and character of government, the common good, ethics

⁵¹ Public Administration Reform Strategy of the Republic of Serbia, Ministry of Public Administration and Local Self-Government, Bleggrade, 2005.

and humanity, largely depends on the success of overcoming the legacy of an authoritarian system in which politics has come to eclipse all other forms of public life and to discourage people of open spirit and free opinion.

The process and the success of de-politicization of state/public administration also depends on several important prerequisites: creation of conditions for appropriate education of various profiles of quality administrative workers of high professional rank; objective selection and appointment of public officials and servants; clear and long-term classification and systematization of vacancies and objectified professional promotion and career policy; protection of public servants from political pressures, primarily from influential centers of political power; clear division between appointed and elected persons. It is not simple to meet these requirements, especially in the near future, considering how truly complex they are. Raising professional knowledge and administrative culture directly reinforces identity of the state and extent to which citizens trust the state and its institutions. This consequently fosters a greater degree of civic participation in public affairs, their cooperativeness and loyalty. All these values and virtues are vital qualities of good public administration and system of good government.

The principle of professionalization, as a foundation for improving the condition of professionally insufficient, inexperienced, amateur, irresponsible and inefficient administration, represents a condition without which quality management in public sector is unthinkable. In order to ensure real and sustainable professionalism of public administration, which is lacking in many transitional societies including Serbia, radical change in vital elements of its organization and management is necessary: altering the understanding of the position and role of public servants and their relationship toward citizens; altering the system of regular and specialized education and a policy of innovative supplementary qualifications, retraining and certifying; introduction and application of new information technologies and standardization of procedures and proceedings bolstering efficiency of public administration and inhibiting the presence of socio-pathological phenomena in the work and decision-making of state bodies; ensuring transparency and responsibility both in terms of creation of norms and in terms of their implementation; creation of new and stimulating system of promotion and rewarding of public servants.

The principle of rationalization, when public administration reform is concerned, pertains to relationship between input and output parameters, assessment of the value of planned and achieved results, optimal use of means for attaining programmed goals. In the sector of state/public administration, the principle of rationalization has various connotation levels. On the macro level, there is a need for permanent re-examination of complementary nature of the division of power (among legislative, executive, administrative and judicial branches), their ranking, mutual interdependence and specific autonomy of each in particular. In terms of various territorial levels of government organization, the nature of mutual relations crucially depends on presence and absence of real rather than formal or fictive de-concentration and decentralization with the well-known advantages it entails. Finally, on the micro level, rationalization raises the issue of balance between original and transferred jurisdiction and level of capacity building necessary for the latter to be discharged in a quality way. The principle of rationalization of state/public administration can also be assessed by assessing use-value of the network of its institutions and organizations, number and quality of engaged human resources, profiles and capacities of administrative workers.

How well grounded the principle of rationalization actually is can also be inferred from assessing state of affairs of institutional functionality of these services, namely appropriateness of their response in addressing social needs, articulating and protecting public interest, common good and serving interests of citizens in a professional and just way. The policy of harmonization of interests and advancement of relations between state and public sector as well as public and private sector is also indicative. These goals presuppose re-adaptation and re-innovation of public administration

The total number of employees in the state/public sector for the period 2004 - 2006

BODY / INSTITUTION	2004.	2005.	2006.
NATIONAL ASSEMBLY OF THE REPUBLIC OF SERBIA	153	231	250
NATIONAL ASSEMBLY OF THE REPUBLIC OF SERBIA – PROFESSIONAL SERVICES	163	201	201
PRESIDENT OF THE REPUBLIC			
EXECUTIVE AND LEGISLATIVE BODIES, FINANCIAL AND FISCAL AFFAIRS AND FOREIGN AFFAIRS	25	62	62
OTHER GENERAL SERVICES		29	29
CONSTITUTIONAL COURT OF SERBIA	47	42	42
JUDICIAL BODIES	249	426	626
SUPREME COURT OF SERBIA	193	232	232
HIGHER COMMERCIAL COURT	58	83	83
STATE PUBLIC PROSECUTION OFFICE	54	65	65
WAR CRIMES PROSECUTION OFFICE	10	18	18
STATE PUBLIC ATTORNEY'S OFFICE	70	73	73
DISTRICT COURTS	2. 165	2.170	2.170
MUNICIPAL COURTS	8. 520	8. 600	8. 600
COMMERCIAL COURTS	1. 000	1. 110	1. 110
DISTRICT PUBLIC PROSECUTOR'S OFFICES	465	470	470
MUNICIPAL PUBLIC PROSECUTOR'S OFFICES	914	991	991
MISDEMEANOR COUNCILS	118	130	130
MUNICIPAL MISDEMEANOR BODIES	2. 565	2. 690	2. 690
GOVERNMENT	80	75	138
CENTER FOR MINE CLEARANCE	8	7	7
EU INTEGRATION OFFICE	24	29	29
OFFICE OF MEDIA RELATIONS	28	35	35
MINISTRY OF JUSTICE	114	101	101
OFFICE FOR ENFORCEMENT OF IMPRISONMENT SANCTIONS	3. 493	3. 800	3. 800
MINISTRY OF INTERIOR	43. 941	45. 141	46. 541
SECURITY INFORMATION AGENCY	2. 283	2. 286	2. 286
MINISTRY OF PUBLIC ADMINISTRATION AND LOCAL SELF-GOVERNMENT	113	101	101
AGENCY FOR PUBLIC ADMINISTRATION DEVELOPMENT	13		
MINISTRY OF FINANCE	406	313	313
TAX OFFICE	8. 245	7. 033	7. 033
TREASURY OFFICE	1. 229	1. 195	1. 195
CUSTOMS OFFICE	2. 477	2. 315	2. 315
STATE COMMITTEE FOR DECISION-MAKING ON CONFLICTS OF INTEREST		12	12
LOTTERY GAMES OFFICE	17	17	17
TOBACCO OFFICE	18	17	17
PUBLIC PROCUREMENTS OFFICE	29	31	31
MINISTRY OF INTERNATINAL ECONOMIC RELATIONS	61	59	59
MINISTRY OF DIASPORA	28	28	28
AGENCY FOR RELATIONS WITH THE DIASPORA	12		

AGENCY FOR FOREIGN INVESTMENTS AND PROMOTION OF EXPORTS	16	25	25
MINISTRY OF ECONOMY	74	68	68
MINISTRY OF TRADE, TOURISM AND SERVICES	898	799	799
STATE OFFICE FOR COMMODITY RESERVES	137	119	119
MINISTRY OF AGRICULTURE, FORESTRY AND WATER MANAGEMENT	1. 038	968	962
MINISTRY OF MINING AND ENERGY	68	68	68
AGENCY FOR ENERGY EFFICIENCY	9	9	9
MINISTRY OF LABOR, EMPLOYMENT AND SOCIAL POLICY	322	310	310
STATE OFFICE FOR ROADS	1. 045	1. 068	
MINISTRY OF LABOR, EMPLOYMENT AND SOCIAL POLICY			
GENERAL ECONOMIC AND COMMERCIAL ACTIVITIES AND LABOR-RELATED ACTIVITIES	604	549	549
SOCIAL ASSISTANCE TO VULNERABLE POPULATION OTHERWISE UNCLASSIFIED	5. 275	5. 395	5. 395
MINISTRY OF SCIENCE AND ENVIRONMENTAL PROTECTION	68	72	72
ENVIRONMENTAL PROTECTION OFFICE	246	205	205
AGENCY FOR ENVIRONMENTAL PROTECTION	25	23	23
SERBIAN ACADEMY OF SCIENCES AND ARTS	146	145	145
STATE INSTITUTE FOR INFORMATION SCIENCE AND THE INTERNET	17	17	17
MINISTRY OF EDUCATION AND SPORT	527	450	450
PRIMARY EDUCATION	51. 919	52. 111	47. 508
SECONDARY EDUCATION	23. 615	23. 782	21. 674
PUPILS' STANDARD	1. 329	1. 303	1. 303
HIGHER AND UNIVERSITY EDUCATION	14. 729	14. 819	14. 504
STUDENTS' STANDARD	2. 151	2. 201	2. 201
OFFICE FOR SPORT	196	108	108
INSTITUTES	30	94	94
MINISTRY OF CULTURE	67	62	62
CULTURAL INSTITUTIONS	2. 533	2. 340	2. 340
AGENCY FOR DEVELOPMENT OF CULTURE	4		
MINISTRY OF HEALTH	389	374	374
RECYCLING AGENCY	15	19	19
MINISTRY OF RELIGION	9	8	8
STATE SECRETARIAT FOR LEGISLATION	28	28	28
STATE INSTITUTE FOR DEVELOPMENT	41	37	37
STATE INSTITUTE FOR STATISTICS	602	541	541
STATE WEATHER SERVICE	742	673	673
STATE GEODETIC INSTITUTE	2. 888	2. 600	2. 600
STATE OFFICE FOR THE PROPERTY OF REPUBLIC OF SERBIA	60	63	63
STATE SEISMOLOGY INSTITUTE	19	15	15
COMMISSIONAIRE FOR REFUGEES	50	44	44
AGENCY FOR DEVELOPMENT OF INFRASTRUCTURE OF LOCAL SELF-GOVERNMENT	7	7	7
OFFICE FOR GENERAL AFFAIRS OF STATE BODIES	1. 285	1. 156	813
ADMINISTRATIVE DISTRICTS			343
COMMISSIONER FOR INFORMATION OF PUBLIC INTEREST		6	6
SERBIAN RAILROAD DIRECTORATE		24	58
STATE AGENCY FOR PEACEFUL RESOLUTION OF LABOR DISPUTES		8	8
TOTAL:	192. 611	192. 931	186. 547

institutions, re-composition of competences along administrative ladder, greater permeation of communication channels and new profiles of human resources with better skills, who are aware of their new mission.

The principle of modernization, should unite, in a synergic way, the harmonization and effectiveness of all previous principles. The essence of demands for accelerated reform of state/public administration boils down on one hand to the imperative for greater effectiveness, efficiency and cost-effectiveness and on the other hand to honest and decisive affirmation of greater participation and influence of citizens in public policy, in public affairs.

The process of modernization implies various developmental platforms and numerous prerequisites which figure already in the initial stage. For example, modernization of political, economic and legal system objectively creates a new climate for advancing global developmental strategy of the ruling policy and for bringing vital decisions. However, the most recognizable is contribution of information and communication technology. Certainly, special contribution is expected to be made by carrying out the National Strategy for Information Society⁵². Apart from explaining the initiative, priorities and goals, it also delineates institutional and legal framework for development of information society, information infrastructure, conception of e-government, as well as the corresponding platform of the public policy sector: e-education, e-health, e-business and e-banking. With the accelerated and irreversible dissemination of increasingly versatile information technology applications, preconditions are made for essential changes in state administration and its relations with citizens. These changes are primarily associated with raising professional standards and objectification of its work, increased transparency of work and accordingly increased responsibility of its representatives. With greater effectiveness and efficiency of the work of its representatives in all sectors of government and public services, it becomes legitimate to raise the issue of cost-effectiveness namely economical quality of its services as well as initiate the search for alternative solutions.

The demands for modernization of public administration and public management are closely associated with activities within the process of EU accession. In that sense, attitudes by the Government of the Republic of Serbia about pre-accession priorities within the European Partnership are indicative⁵³. Public administration reform has been selected as a key priority, as well as obligation to professionalize it in terms of multiple raising of individual capacities of public administrators as well as in terms of consistent improvement of their social rating and adequate system of remuneration (new acts on public officials and salaries in state administration). The need to boost human resource structures working on European integration processes in all departments and at all levels has been particularly singled out and rightly so.

The part of the aforementioned Plan which deals with laying foundations for democracy and rule of law in terms of the role of public administration insists on synergic effects of Europe-oriented approaches of line ministries and their assumed better cooperation and coordination. In this context, the need arises to make more appropriate study programs that would help acquire new perspectives and knowledge of contemporary administrative workers who have a

⁵² The Ministry of Science and Environmental Protection– UNDP, Serbia and Montenegro, Belgrade, 2005. The strategic and the action plan have been made on the basis of the following documents: the Memorandum on Understanding Concerning Development of Information Society, which was accepted by all South East Europe countries (June 2002); Agenda for the Development of Information Society within eSEE, Stability Pact (Belgrade, October 2002.); Conclusions of the regional Ministerial Conference on Information Society, Thessaloniki, July 2005; Declarations and the Action Plan of the World Summit on Information Society, Geneva, 2003. The recommendations of the Council of Europe and the European Commission on the Action Plan of e-Europe, 2003, 2005 and for 2010.

⁵³ "Plan for Implementing Priorities from the European Partnership" adopted by the Government of the Republic of Serbia on April 7, 2006.

different administrative culture and ethics, namely to effect „human resource development of state administration“. The institution of the Protector of Citizens (Ombudsman) also needs to finally find its place and become operative.

Apart from already introduced legislative innovations (the Law on Government, the Law on Public Administration, the Law on Civil Servants etc), the expected effects of the Law on Public Agencies (2005), which are to be established in order to perform developmental, professional and regulatory tasks of general interest if these tasks are such that they do not demand permanent and direct political supervision and if a public agency can perform them better and more effectively than a public administration body would do, especially if they can be entirely or largely financed from the cost paid by service users, are also expected to contribute to this process of political and legal consolidation and greater effectiveness. By-laws and numerous decrees that regulate the work of highest bodies of executive and administrative power are also expected to take a similar direction. An important priority is also the commitment to build capacities of public administration at the local level as well in the sphere of transferred competences. In that sense, there is an expectation that the processes of decentralization (which are actually not visible) might reinforce capacities of local authorities.

The aforementioned most recent government document that deals with short-term and only sporadically with the mid-term reform priorities raises numerous issues such as: basic criteria for setting priorities, reasons for absence of their mutual ranking, incomplete carrying out of activities necessary to attain them (boiling down to adoption of normative acts), inconsistent assessment of current condition of implementation and lack of distinction between activities performed to attain the priorities and the extent to which they have been implemented as well as the issue of insufficient financial resources for realization of this complex project. In this document, as well as in many previous ones, projection of deadlines is a weak point and what is lacking a more sophisticated analysis of obstacles jeopardizing attainment of elaborated priorities for successful European integration of Serbia. It is superfluous to reiterate that the EU decision to suspend negotiations on Stabilization and Association Agreement of Serbia with the European Union will certainly reflect on decreased dynamic and motivation of expert teams, only just set up, for this long-term work and will accordingly very directly affect the entire quality of (pre)accession activities. The already adopted (on May 17, 2006) EU budget for the period from 2007 to 2013, which has been assessed as minimal for functioning of the EU and insufficient for absorption of new member states, will produce incremental harmful ramifications. It is bad news for all aspiring EU states, but especially alarming for Serbia due to its menacing marginalization.

As a whole, the reform of state/public administration does not unfold in accordance with priority areas or at required speed. Such a development does not follow reform course of either old or new EU members. The need to enact a new Constitution has been long proffered as the basic reason for this, but without giving valid arguments concerning this part of normative re-institutionalization. This excuse has been adduced whenever executive-administrative government has tried to delay initiation and/or adoption of certain law drafts. Furthermore, there is visible evidence that there is a lack of timely making of accompanying regulatory norms, which backfires on the very core of legal reconstruction. This impression is further corroborated by manifest structure of reform principles of public administration, as well as by the Action Plan for Implementation of Public Administration Reform. See attachment no. 1 and the above-presented dynamics of implementation of the Action Plan.

Other and even more serious shortcomings in modernization of state/public administration have to do with ill-preparedness of state bodies and organizations for strategic management of developmental, reform projects and consequently for synergic character of inter-ministerial relations and absence of links among various territorial levels of government organization. It is also a fact that the role of local authorities and local self-government is marginalized, because it remains deprived of a broader range of autonomous rights, including vital ownership prerogatives for more influential participation, primarily in economic life.

In general, one can venture a conclusion that meager reform achievements in the sector of public administration and public management is also partly due to professional ill-preparedness of human resource potential (still under the very strong patronage of political parties). The administrative apparatus is still too bulky all along the administrative axis, and one of the reasons for that is low operativeness and modest effectiveness of implemented information technologies. Additionally, constant insufficiency of financial resources for real and rational re-definition and re-designing of public administration sector as a whole, from the state to the local level, is noticeable. Finally, the very processes of harmonization of legal systems in this sphere progress too slowly under European standards.

**An overview of the number of employees
whose salaries are paid resources transferred to the budget of AP Vojvodina**

INSTITUTION	2004	2005	2006
PRIMARY EDUCATION Preschool and primary education	18. 796	19. 016	17. 700
SECONDARY EDUCATION Secondary education	8. 100	8. 160	7. 592
PUPILS' STANDARD Auxiliary services in education	344	395	395
HIGHER AND UNIVERSITY EDUCATION Higher education	3. 650	3. 936	3. 936
STUDENTS' STANDARD Auxiliary services in education	420	424	424
TOTAL:	31. 310	31. 931	30. 047

Capacities of the education system

In order to analyze the capacity of the education system of the Republic of Serbia to educate experts who will successfully perform tasks in state administration and public administration on the path toward European Union, several elements have to be taken into account: it should be established at which level of the education system these experts are educated; determined in which institutions the relevant programs are being carried out; contents of programs that cover or will be covering these issues; the process of general education reforms in our country, because analysis of that part of the education system that mostly educates experts for work in public administration cannot be assessed apart from the currents of general education reform.

This report does not specifically deal with the issue of programs and does not analyse contents of various programs, for two reasons. Firstly, because study programs at majority of our faculties are currently being amended. Secondly, the existing study programs are presented in such a way that they clearly express what students will be taught but fail to mention expected competences and skills gained in case exams are successfully passed or the program successfully completed. Accordingly, these issues are discussed from the point of view of general instructions for devising new educational study programs, which is an issue that has also been dealt with by the Law on Higher Education from 2005.

The existing situation in Serbia... The situation in Europe

The Law on Civil Servants, which regulates the procedure of appointment of civil servants in state administration, clearly indicates that one of basic preconditions for almost all posts is a university degree (senior consultants, independent consultants, consultants, junior consultants) or a vocational school degree (associates and junior associates), and only the lowest officials in state administration are required to have no more than a high school diploma.

In terms of education of experts for public administration and administration in European countries, the situation is similar. Namely, a university degree is a precondition for the highest posts in administration. However, considering the reform of the education system, the difference lies in the grading of studies – for certain posts it is sufficient to complete undergraduate studies lasting three years, while other posts demand master or specialist studies or even doctoral studies (3+2+3).

It is obvious that higher education system is of key importance for educating quality human resources to work in administration. This certainly does not mean that secondary schooling can be neglected in this regard. On the contrary, contemporary European integrative processes to shape a competitive European knowledge-based economy insist on boosting the quality of secondary vocational education. This issue is being tackled in a very systematic way and a couple of years ago the so-called Copenhagen Process has been initiated and is very important for creation of a common European space of vocational education as well as for improving the quality of education precisely at the level of secondary and higher professional education.

Even though they are seemingly two levels of education, secondary vocational and higher education are actually complementary and interconnected. This is not only visible in the fact that completed high school is a precondition for enrolment to a university, but can also be perceived in many other aspects of education and professional advancement, such as, for example, in the creation of study programs on both levels that serve to form experts of a certain profile, in interaction of the study programs especially between colleges and universities etc. All this is supposed to contribute to greater integration of various levels of the education system, which has been stressed as a necessity in the European Commission Statement in 2003, as well as by European ministers for the field of education and vocational education

during their meeting in Dublin in 2004, when they emphasized the need for greater integration of professional education and advancement and higher education.

Necessary amendments of existing laws

Under the Law on Higher Education, vocational schools will be revoked and in their stead establishment of higher schools of vocational studies has been envisaged. This automatically implies the need to amend the existing Law on Civil Servants. This amendment will to a certain extent depend on other factors as well.

Primarily, the Law on Higher Education also envisages two types of studies at undergraduate level, two types of graduate studies as well as Ph.D. studies. The qualifications to be obtained when these studies are completed are to be defined by the National Higher Education Council. If the Law on Civil Servants wants to specify qualifications, it has to wait first for the National Council to complete its work.

Additionally, the Bologna Process documents adopted by education ministers of all countries participating in the process, including our country, envisage making a national framework of qualifications that will accord with the general European framework accepted in Bergen in 2005. This job has been broached as a part of the National Observatory and has recently been transferred to competent ministries. It seems that finalization of this job ought to be preceded by amendments to the Law on Civil Servants.

Education offer

The current state of affairs

Future experts for work in administration are educated primarily at the Faculties of Law, Economy and Political Sciences. These institutions provide formal education, namely the education after which each individual acquires a degree of a Bachelor of Arts, a Master of Arts or a Doctor of Philosophy, depending on the level of education. However, there are institutions which provide the so-called informal education, namely education not accompanied by issuance of formal qualifications, serving only as a kind of supplementary education and advancement (various educational centres, educational programs etc). The links between formal and informal education are gaining in importance, especially in the context of lifelong learning. State administration and local (self)-government also employ experts of other profiles (medical doctors; weather service experts, seismologists; forestry engineers), but this analysis will not take a direct interest in education of these expert profiles; nevertheless, many conclusions and recommendations pertaining to education of lawyers, economists and political scientists are also appropriate for education of other expert profiles.

In the Republic of Serbia, over 5,000 students enroll the Law Faculty each year and some 1000 obtain a degree⁵⁴. According to the available information, one has an impression that most lawyers who graduate become attorneys after they complete their studies. Over 3000 students enroll the Economic Faculty each year and around 1100 obtain a degree. The most attractive departments are associated with business management. As far as political sciences are concerned, around

⁵⁴ Exact data of average number of enrolled and graduate students are not provided at the website of the University of Belgrade or web sites of individual faculties. Since there is no common university information system, it is probable that no-one has tried to establish this statistics. The information given has been taken from the five-year statistical analysis made by the Ministry of Education and Sport for the period 1996-2002.

500 students enroll each year, most of them enroll the department of journalism and communication. These numbers suggest that even though over 8000 potential administration experts enroll a faculty each year in Serbia, a considerably smaller number is interested in the work in administration and the greatest interest is for those profiles which educate professionals for „concrete jobs“ namely for work in business enterprises, media or establish their own law practice. This data can also be interpreted in the light of the need of young graduate experts to find solidly paid stable job immediately after they complete their studies. Undoubtedly, the repulsion toward administrative jobs also has to do with the prevailing negative image of politics in general along the population and with their distrust in judiciary and government officials. Furthermore, there is inherited wrong assumption that administrative work is only for those who are unable to find something better, or in other words, that it is a fairly undemanding work. It goes without saying that globally, only top professionals are employed in state institutions as well as in administration of universities.

Apart from the basic knowledge, knowledge of foreign languages and IT competence are the basic preconditions for work, especially work in administrative managerial posts. These are two types of knowledge or skills which demand special attention at all education levels. In addition, interdisciplinary education, which has become almost extinguished in Serbia, will have to become practice at all levels of education as one of pillars of the Bologna reforms. For a post in administration, broader interdisciplinary education is almost compulsory. In order to attract the most capable young people to take these jobs, it is necessary to increase salaries for professional administrative work.

Institutions important for this analysis can be either state or privately funded, regardless of their status as either formal or informal institutions. State faculties organize all three levels of studies (undergraduate, graduate and doctoral studies). What follows is their short description as well as web sites of those faculties which have their internet presentation⁵⁵:

The Law Faculty of the University of Belgrade (www.ius.bg.ac.yu) organizes teaching for four-year undergraduate studies. However, after a certain number of successfully taken exams a student can acquire a college diploma.

The Law Faculty of the University of Niš (www.prafak.ni.ac.yu) organizes teaching within undergraduate studies in seven study groups: criminal law, civic law, constitutional law, business law, financial law, international law and law theory study groups.

The Law Faculty of the University of Kragujevac (www.jura.kg.ac.yu) organizes teaching for four-year and three-year undergraduate studies to gain professional certificate of a lawyer of the basic degree, namely college-level graduate lawyer.

The Law Faculty of the University in Novi Sad (www.pravni.ns.ac.yu) organizes teaching for three-year and four-year undergraduate studies.

The Law Faculty of the University in Priština, with a temporary headquarters in Kosovska Mitrovica, organizes teaching for one general study group of undergraduate studies lasting four years.

The Economic Faculty of the University of Belgrade (www.ekof.bg.ac.yu) organizes teaching as a part of undergraduate studies for the following study groups: Economic Analysis and Policy, Marketing, Accounting, Auditing and Financial Management, Trade, Finances, Banking and Insurance, Tourism and Hotel Management, Statistics, Information Science and Quantitative Economy, Management, International Economy and Foreign Trade. It is important to note that this faculty also organizes distance learning.

⁵⁵ Internet web addresses of faculties are provided so that those interested can have a comparative overview of institutions and study programs.

The Economic Faculty of the University in Niš (www.eknfak.ni.ac.yu) organizes three study groups as a part of four-year undergraduate studies: Financial Management, Marketing and Business Economy.

The Economic Faculty of the University in Kragujevac (www.ekfak.kg.ac.yu) organizes four-year undergraduate studies in five areas: General Economy, Business Economy, Management, Commercial Management, Hotel Management and Tourism.

The Economic Faculty in Subotica of the University of Novi Sad (www.eccf.su.ac.yu) organizes undergraduate studies in nine study groups: European Economy and Business, Agricultural Economy and Business, Marketing, Trade, Finances, Banking and Insurance, Accounting and Auditing, Management, Quantitative Economy and Business Information Systems.

The Economic Faculty of the University of Priština, with temporary headquarters in Zubin Potok, organizes classes as a part of four-year undergraduate studies.

The Faculty of Political Sciences of the University of Belgrade (www.fpn.bg.ac.yu) provides teaching within undergraduate studies in four departments: Journalism and Communications, Political Science, International Studies, Social Policy and Social Work. At undergraduate level, there are numerous programs important for education of experts for the work in state and public administration.

At the Law Faculty of the University in Belgrade M.A. studies in European Union Law have been organized in cooperation with the University Centre from Nantes (France) since 1996. At the University of Novi Sad The Centre for European Studies and Research (CAESAR; www.caesar.uns.ac.yu) has been established. In addition to other activities, it aims to educate human resources for the work in bodies which tightly cooperate with institutions of the European Union and which will be future experts delegated to various European bodies and organs. The first generation of students studying in the English language has been enrolled, another European language is obligatory and exams in EU policy, economy and law are studied with a large number of elective subjects. Since under the new Law on Higher Education Magister studies have been revoked in accordance with Bologna obligations, these studies will turn into doctoral studies, while specialist and master European studies will be organized. CAESAR also provides training for employees in municipal, province-level and republic-level administrations. The studies in Belgrade and in Novi Sad have been established with the assistance of the Fund for an Open Society.

The Law Faculty of the University in Kragujevac has been organizing regular winter schools in European Union Law for over ten years now.

As far as private faculties are concerned, it is less easy to ascertain which ones really offer programs relevant for administration. A large number of private universities and faculties have „management“ in the title of their programs, but these programs are almost exclusively economic. Of those private institutions that have obtained operating licence from the Ministry of Education and Sport of Republic of Serbia, the following are relevant for this analysis:

The Faculty of Economy, Finances and Administration of the University of Singidunum (www.fefa.edu.yu) provides teaching on all three degree levels. Undergraduate studies last three years and are divided into three study programs: Applied Economy, Finances and Banking, Business Administration and Management, Public Administration and Local Self-Government.

The Faculty of State Government and Administration of the Mega trend University (www.megatrend-edu.net/ins.php?i=12) provides teaching at all three study levels. Undergraduate studies last four years and study groups are: Study Group for State Administration, Study Group for Taxes and Customs, Study Group for Judicial Administration, Study Group for Administration.

The Business Academy in Novi Sad (www.businessacademy.co.yu) offers programs in three departments: the department for education of Graduate Lawyers to meet the needs of the economy and the judiciary, the department for education of graduate lawyers and graduate economists for business managers, the department for education of human resources for foreign trade.

The Faculty for Service Business of the European University in Novi Sad (www.fabus.edu.yu/home.htm) and its department Management in Public Services Sector.

The Faculty for Management and Business Economy of the University in Novi Pazar (www.uninp.edu.yu) and its management department organize classes in four departments one of which is a department for public sector management.

The Law Faculty of the University in Novi Pazar provides classes in two departments: law department and crime investigation department.

The Faculty of Humanities of the University in Novi Pazar and its department for political sciences offer classes within the study group for diplomacy and international relations, the study group for journalism and the study group for political science.

The Law Faculty of the Union University (www.fpp.edu.yu) provides four-year undergraduate studies.

Colleges are also a part of the higher education system of the Republic of Serbia. Currently, 49 state and 17 private colleges are registered. When education for public administration and public administration is concerned, business and economic colleges are important, as well as colleges for management and entrepreneurship.

In addition to formal, there are also informal programs providing education and training of professionals for jobs in state and public administration. These are primarily programs carried out in certain courts (Commercial Court in Belgrade, First Municipal Court in Belgrade), the aim of which is to advance knowledge and expertise primarily of judicial officials in the Republic of Serbia as well as those who work in administration on law-related jobs, as well as specialized programs such as those offered by legal clinics or Undergraduate Academy of the Ministry of Foreign Affairs. Education in this area is also a field of activity of some organizations from the civil sector, such as the PALGO Centre, Alternative Academic Educational Network, Belgrade Open School, Civic Initiatives, Standing Conference of Towns and Municipalities etc, which offer supplementary education to interested candidates.

Imminent changes and doubts

Under the Law on Higher Education, all existing faculties and universities have a licence to operate for a period of next five years. Also, vocational schools will cease to exist. Those that wish to continue to work as higher education schools of vocational studies have to submit their requests by September 2006 in order to be issued a working licence. In addition, they have to be accredited by the Commission for Accreditation and Quality Assessment and obtain a working permit from the Ministry of Education and Sport. The National Council for Higher Education has appointed the Commission for Accreditation and Quality Assessment and adopted standards and conditions for accreditation. Considering the fact that the Commission has only recently been set up, the deadline for vocational schools to submit their requests for a working license was very short.

In conclusion, let us mention that restructuring strategies and plans of existing higher education institutions (integration of faculties into a university, transformation of vocational schools into higher education schools of vocational studies, setting up academies of vocational studies etc) are not known at the moment. It is therefore impossible to envis-

age what these institutions will look like in a couple of years and which ones will continue to be engaged in educational activity at all, especially in education of human resources for state administration.

Study programs and reform

All study programs of aforementioned higher education institutions are currently carried out in accordance with education programs defined earlier. Since none of these documents is explicit about expected competences and skills, it is almost impossible to make adequate analysis of program contents. It does not mean that all existing programs are bad, it only means that it will be necessary to define learning outcomes very clearly in accordance with previously selected methodology.

All higher education institutions are currently in the process of reform of study programs in accordance with requirements of the Law on Higher Education, as well as the Bologna Process.

Upcoming changes

The new Law on Higher Education envisages a new system of accrediting the programs. Moreover, the Law specifies very precisely the contents of the study programs, highlighting competences that should be acquired with the successful completion of a program (learning outcomes).

The procedure of bringing new study programs in accord with standards of the Bologna Process implies a certain process involving participation of various relevant factors –graduate students, teachers, employers. First and foremost, it is necessary to begin by defining learning outcomes for each program individually. Learning outcomes are a textual description of what a student is expected to know, understand and what he/she can do at the end of the period of learning and in what way the taught contents can be presented. These learning outcomes are defined for each study program as a whole (what is expected of a graduate expert to know, understand and do when he/she has completed undergraduate studies) and for individual programs of concrete subjects. The method of defining learning outcomes depends on the area for which they are educated and on the level of studies. This is most often done by consulting experts and interest groups. A conclusion can therefore be drawn that various educational programs can have the same or very similar learning outcomes (for example, both for law and political science courses or subjects learning outcomes for public administration program can be identical), while learning outcomes for individual kindred courses or subjects within the same program can significantly differ (for example, as a part of law studies, learning outcomes for the course on international law may place greater importance on normative aspects, while within political science studies more emphasis may be placed on relations among subjects of international law)⁵⁶.

In this process, one should carefully consider alignment of study programs with the European standards. It implies not only essential similarity with the leading European programs in this area, but also observance of the methods which proved to be successful in long-standing European practice. In terms of contents, it can be beneficial to use as a model

⁵⁶ The ways and examples for defining learning outcomes can be found in several publications and documents. The helpful ones include the ECTS Users' Guide of the European Commission and the publication *The Module and Programme Development Handbook: A Practical Guide to Linking Levels, Learning Outcomes and Assessment* (Jennifer Moon).

the European processes of identification of competences and learning outcomes for individual programs which have already been successfully carried out. Among them, one of the best is certainly the British model made by the UK Agency for Quality Assurance in Higher Education, under the title *Benchmarking academic standards: proposed recognition scheme for further subject benchmark statements*. This study contains some useful indicators for the fields of law, political science, international relations and economy as well as for the area of social work and its administration. As far as methods are concerned, results of a major European project of harmonization of educational structures for individual scientific areas, namely *tuning*, may serve as a useful tool for creating new study programs⁵⁷.

On the basis of everything that has been mentioned, and especially on the basis of previous practice, it is clear that creating of new study programs for state and public administration represents a process which is demanding both in terms of time and effort. Obviously, it does not mean that such a conclusion can be used to continue stalling creation of new programs, saying that additional time is needed – on the contrary, it is necessary to invest more efforts to make up for the lost time in order to make our study programs in this area competitive if not at the level of entire Europe than at least in the region, and there is (still) some potential for that. It is extremely important first of all to determine clear final outcomes of each study program and only subsequently to start determining contents of programs themselves. This is precisely the reason why it is impossible to give at this moment any meaningful recommendation about the contents of new programs, because learning outcomes have not yet been defined! One can only reiterate that successful European practice (good practice examples) exists, as well as documents, studies and publications that may be useful to those who will be dealing with these issues in the near future.

The recommendations of specialized associations relevant for this area can prove to be very useful in this regard. These include recommendations of the European Network for Political Sciences, those of the Association of Law Faculties of Europe and so forth. More concretely, the European Network for Political Sciences in its document entitled *The Bologna Declaration and the Basic Requirements of a Bachelor of Arts (BA) in Political Science in Europe* has provided very clear recommendations about areas that should form an inherent part of compulsory subjects and about requisite foundations for any quality study program for political scientists. These areas are: political theory / history of political ideas, methodology (including statistics), political system of the given country and the European Union, Comparative Politics, International Relations, Public Administration and Political Analysis, Political Economy / Political Sociology. Of course it is up to universities, more specifically to faculties to decide how many subjects are going to cover these areas and what will be the contents of the very subjects. As has been mentioned, the contents are determined on the basis of defined learning outcomes.

Moreover, to determine contents of new study programs that will serve to educate competent experts for the process of our country's rapprochement to the European Union, it would be very useful to consult the European Commission document entitled *Main Administrative Structures Required for Implementing the Acquis*. Even though this is an informal working document, used only internally and as an auxiliary tool for European Commission bodies, it contains a lot of information. Saying that, „in terms of the role of public administration, ministries ought to have correctly and satisfac-

⁵⁷ The results of this process have been published in a separate publication *Tuning Educational Structures in Europe II: Universities' Contribution to the Bologna Process* and even though it does not fully cover programs important for education for state and public administration (only Business Administration and partially European Studies – the aforementioned postgraduate program of European Studies at the University in Novi Sad is included in the *Tuning* project - have been covered) the overview of methodology of aligning study programs can be very helpful as well as the approach to certain problems which has been adopted. This research is certainly a very good starting point for any future work on reformed programs.

torily educated experts able to successfully grapple with technical issues of new legislation“, this document tells how to regulate parts of administration (ministries and specialized agencies) and cites required skills and competences which those working in these administrative bodies should possess for successful implementation of the *Acquis* in 33 relevant areas, including: free flow of goods, services, capital and workforce, public procurements, business law, intellectual property law, competition, financial services, information society and media, agriculture and rural development, quality of food and veterinary and sanitary policy, fishing, traffic policy, energy, taxation, economic and monetary policy, statistics, social policy and employment, entrepreneurship and policy of small- and medium-sized economy, trans-European networks, regional policy and coordination of structural instruments, judicial and basic rights, judiciary, freedoms and security, science and research, education and culture, environment, consumer protection and healthcare service, customs union, foreign relations, foreign, security and defense policy, financial control, financial and budgetary measures. It is clear that recommendations from this document can be used as a starting point for preparing new study programs for educating future experts who will participate in creating and implementing policy and strategy of Serbia's association with the European Union. These recommendations can be used to define learning outcomes of new programs that will focus on concrete specialized tasks, which may be of exceptional importance especially for the current vocational and future colleges in their efforts to reform their activities. The last version of the document from 2005 can be found on the Internet.

In conclusion, it is of exceptional importance for the state and public administration, namely for the state as an employer, to specify which competences and skills they expect from employees working in these posts. In that sense, it would be necessary to appropriately expound the national framework of qualifications (once it is enacted).

LOCAL (SELF)GOVERNMENT

Centralization vs. decentralization

A gap between Constitutional guarantees and practice

The citizens' rights to local (self)government are guaranteed by the new Constitution.

It is an irrefutable fact that the administrative system in Serbia is still centralistic. In practice, the local authorities are forced to address the ministries for permission to resolve numerous issues and problems. The ministries, which in the centralized system have exceptionally great authority, of a primarily operational nature are so occupied that they most often do not react at all, which completely blocks the work of the local authorities and thus prevents the normal functioning of the system. The majority of municipalities "manage" by using private connections and party channels instead of the regular ones which points out the weak capacities of the state and the extended functioning of volunteerism, party loyalty and the great influence of closed party groups on making important decisions within the system.

The fact remains that the municipalities which did not wait for instructions, permission and ideas from Republic level, but started the reforms by themselves, achieved the best effects in the reforms. Often, the results and effects achieved by those municipalities exert the most effective pressure on the central authorities to speed up the reforms. The previous work of the central authorities did not present a clear strategy, did not strongly stimulate the local authorities to take the part in the reforms processes, nor did it give them the necessary instruments to do so. The systematic affirmation of the best results of the work of the local authorities was also lacking. In such a relationship there is still no partnership between the central and local authorities, which would be a certain sign of real democratization. It could be said that the central authorities failed to express any desire for partnership with the local self-government. Those ideas and needs were identified and pointed out by non governmental organizations, the SCTM⁵⁸ (the slogan of the last assembly was "The partnership between the state and the local authorities: for a better service to the citizens"), international foundations etc. Therefore, logically, the effects of the reforms on the decentralization plan were in entirety modest. What is a cause for concern is that lately there are indications of a return to the old ways in various fields.⁵⁹ The new Constitution has already taken a step backwards. The new Constitution explicitly regulates that the municipal assembly decides on the election of the municipal executive authorities, even though the positive effects of the direct election of the president of the municipality are already visible after just over two years of the functioning of such a system. The Constitution has left room for the election of executive authorities in cities and the City of Belgrade to be regulated by law.

The Constitution also guarantees a very meager list of municipalities' original competences. This leaves room for the legislator to define the competences of the municipalities, but also room for manipulation. The 1990's were dominated by manipulation. The instances of depriving municipalities of their property rights through the

⁵⁸ Standing Conference of Towns and Municipalities.

⁵⁹ The amendments to the Law on Local Self-government (the return of the indirect election of the municipality president/mayor), the return of the authoritarian and centralistic model of managing the educational system, centralisation in the field of planning and urbanism etc. have been announced.

Law on Resources Owned by the Republic of Serbia or the several year long receiverships in certain municipalities clearly demonstrate the need for the establishment of solid constitutional guarantees for local self-government.

The new Constitution now guarantees the right of local (self)government to property and the free management of their own property. However, the aforementioned provisions do not represent the state's obligation to return to the local (self)government the property withdrawn during the 1990's.

The Constitution treats the City of Belgrade in a special way, but the law which would more closely regulate the status and competences of the City has not yet been adopted even though the Law on Self-government determines that a special law will be adopted for that purpose.

Authorities which were not transferred

By passing the Law on Local Self-Government, which the Serbian Government adopted in 2002,⁶⁰ Serbia gained a law which integrates the most significant European standards and creates the space for European practices in the work of the local authorities. This law defines an extensive list of the competences of the local authorities, but even four years later those competences have not been transferred to local level. The National Strategy for the Accession of Serbia and Montenegro to the European Union mentions the importance of the transfer of the state's work to the regions and municipalities as well as the obligation of the harmonization of the law with the standards of the European Charter on Local Self-government and the European Charter on Regions. Unfortunately, the National Strategy and the Feasibility Study do not place decentralization in the centre of the analysis, nor work on the local self-government as a separate system, but mentions it indirectly as part of the reform of the public administration.

The Law on Local Self-government ensured a set of rather broad original competences for local authorities which coincides with the classical circle of competences which exist in European countries. Therefore the municipalities' competences are: communal services (the distribution of electricity, gas, water, the sewerage system, cleaning and refuse collection), local transport, roads, traffic and the signal system, urbanism and construction, housing, child care, primary schools, primary health care, social services, culture, information, sport, recreation, green areas, ecology, the stimulation of economic development, etc.

The part of the process which has not been completed is the transfer of those competences from the republican to the local authorities by the laws from other sectors. Such a situation has also been identified as problematic in the National Strategy. It is considered that "sudden decentralization" would be bad for many fields, thus the gradual transfer of duties and increased capacities for local authorities is the chosen strategy. Since the state does very little regarding the increase of local authorities' capacities, the conclusion is that it is not very interested in the that process and that in the background of this passivity lies the desire of the republican authorities (the

⁶⁰ *Official Gazette of the Republic of Serbia*, nos. 2/02, 33/04, 135/04, and 62/06.

Government and Ministries) to retain their influence and power and to control the money which goes through those competences and works.

Therefore, for instance, the *fields of primary education, primary health care and social care* are still not sufficiently decentralized, even though the Law on Local Self-government gives those competences, as authentic ones, to the local authorities. In spite of the justified insistence on the gradual transfer of those duties to the local authorities, the implemented changes have been very modest.⁶¹

The Law on General Education transferred part of the competences from this field to the local self-government (founding schools, management in the sense of electing the schools boards and directors, material maintenance, alternative educational programs), but not the teachers' salaries. The next step forward in the reform would be the transfer of salaries in those three fields to the municipalities with the obligation that undeveloped areas receive support through the Fund for Equalizing, by which the state would guarantee the minimum wage to all employees in a given field. Only after that, could it be said that decentralization was consistently realized through the transfer of competences, finances and the management system.

State bodies and local self-government representatives often cite the ethnic diversity of many municipalities as their significant quality and the best channel of cooperation with states and local and regional self-governments. However, little has been done to make use of these advantages and, apart from the periodical protocol visits of administration representatives, significant results in this field have not been marked. The central administration does not have, nor can it have a sufficient level of sensibility for the necessary finesses required to govern multiethnic municipalities and therefore lacks sufficient understanding for the increased financial needs of multiethnic municipalities which, deprived of funds, are not in a position to respect the guaranteed rights of the members of the national minorities. Problems are particularly present in the fields of education, culture and information in national minority languages.

Current laws in the field of *urbanism and environmental protection* envisage the active participation of experts and the wider public in the consultation and decision making processes at local level. Local authorities are still not fully aware of such a need thus unpunished violations of the law in this field are frequent. The modernization of the work in this field involves greater transparency, consistent implementation of the law, introduction of a penalty system for violators (with the withdrawal of licenses from those who participate in unlicensed construction projects etc.), professionalization and the introduction of competition in designing space and urbanism plans and their realization etc. This field is very important for the normal functioning of the local community and is currently the source of many problems. Some of them are: unlicensed parceling and construction, the monopoly held by certain political-expert centers of power, corruption, the irrational spending of resources, the formalized announcement of proposed documents and projects and their consequences, which is not sufficient

⁶¹ The National Strategy confirms the necessity of decentralisation in the field of education, while for health and social care mentions other factors (modernisation, professionalisation) but not the transfer of part of those duties to the local authorities. See education (pages 84–87), social security and protection (pages 89–92 and 94–95) and health care (pages 92–95).

even for the adequate informing of the expert public, not to mention ordinary citizens and alternatives, to which citizens could opt for or against, are almost never offered, etc.

The competence in the *security* field has still not been transferred to municipalities and the establishment of the local police has been postponed with various excuses. The local police would maintain public law and order, intervene in removing or demolishing illegally constructed objects which would provide greater efficiency in the work of the local bodies and certainly reduce the number of law violations.

The local authorities do have the possibility of transferring part of their work to private companies and agencies (through open competition) which is regulated by the *Law on Concessions*. Problems emerge when the main subject of granting and approving concession is the Government of Serbia through the Agency for Property, while the local authorities are mentioned only as the subjects which can launch initiatives for granting concession. Of great importance is the increase in the local authorities' capacities for monitoring the quality of the realization of those works, with full respect for professional and expert standards. The essence of those processes lies in the cooperation between the local and republican authorities as well as cooperation with expert and professional agencies and associations in establishing the standards for each of those fields, and the constant monitoring of the effects of these activities considering the citizens needs.

The *stimulation of economic development* belongs to the group of functions of the modern local authorities for which, in Serbia, it is necessary to increase autonomy and to raise enterprising potentials. The extending of the circle of municipalities competences, the return of property, the strengthening of financial autonomy as well as the development of managerial and enterprising skills are the prerequisites for the local authorities' successful implementation of those important functions which resolve a large number of social and other problems.

In all municipalities in Serbia the crises and stoppage in the development of the economy, and its resulting level of unemployment, are identified as the fundamental problems. It is considered that setting economy in motion would directly and indirectly resolve or facilitate the solving of the biggest social problems in municipalities and in the society in general. The experiences of other countries demonstrate that the partnership relations between the state and the local authorities are of great importance in attracting capital and for economic development.

The development of strategic planning and management, active cooperation between different ministries and the establishment of joint projects, active cooperation with the local authorities as partners and the coordination of the work of all subjects (local authorities) in the implementation of reforms belong to the group of skills which are yet to be developed. The rigid departmental method of operating of ministries still dominates, which is characterized by the overlapping of tasks, but also the omission of some important fields, numerous irrationalities, poor monitoring of the quality and effects of work, poor analysis of achieved results and a complete lack of the cost-benefit analysis. It is encouraging that the National Strategy emphasizes that a unit for European integration, which would be responsible for monitoring the creation of the policies and measures important for accession, should be established in every ministry.

The previous practices of the central authorities were not a particularly effective stimulant for the introduction of the strategic, multi-sector method of work at local level. The central authorities have rarely stimulated the local authorities to develop partnership relationship with citizens, local institutions and organizations and to improve the quality of their work.

Local (self)government without property

By the Law on Resources Owned by the Republic of Serbia⁶², in 1995 the local authorities were deprived of all property, which was then declared the property of the Republic of Serbia without any explanation or compensation. The centralized system of management over the property which is used by cities and municipalities was thus established. The local authorities were left with the rights to use the property, the management of the property was restricted, but they were left with all obligations to cover the running costs and investments in maintenance.

According to that regime, for every act of property management (procurement, transfer or rights to use, mortgages, leasing or cancellation of lease) the local authorities have to procure approval from the Republican Directorate for Property. The Directorate, as a rule, does not respond to those requests or the procedure takes a long time, thus around 70% of local authority requests remain unresolved, and the average waiting time for resolving those issues is 3 years and 10 months. This operational regime is blocking the elementary functioning of local authorities and it is a constant source of conflict, irrationality and inefficiency. Without property the local authorities cannot carry out their work efficiently, and cannot stimulate economic development as they are unable to attract investments or help the creation of new jobs, which are Serbia's development priorities and the citizens' most important needs.⁶³

In Serbia, where over one third of citizens are unemployed and 70% of the population live on the poverty line, those reasons are not stronger than the politicians desire for influence, thus the return of property to the local authorities remains uncertain.

A modern law on local self-government property (the bill was completed in summer 2004, and only entered the Parliamentary procedure in December 2005) would provide the local authorities with the necessary instruments for the successful exercise of their competences and accomplishment of tasks and give them the chance to become important engines of development. This law would finally introduce order through the establishment of public property registers and would strengthen the responsibilities in managing the property, considering that the bill introduces the obligation of public competition for the sale of property and detailed budget control.

⁶² *Official Gazette of the Republic of Serbia*, nos. 53/95, 3/96, 54/96, 32/97 and 101/05.

⁶³ In 2005 a study was made which calculated the financial damages which the society incurred (because the municipality is not the owner of the property) because of the loss of direct investments and the collapse of numerous development projects. On the basis of those calculations, and not counting losses on non realised investments (which are the biggest) this system made losses of 1.3 billion euros and several thousands of jobs, and every coming year incurs losses of at least 103 million euros.

It is interesting to note that the National Strategy establishes the general rights on property “withdrawn by the totalitarian regime”, but does not precise the return of the property to the local authorities, nor does it include the adoption of the law on local authority property into the action plan for the harmonization of the Republic of Serbia’s laws with European Union regulations.⁶⁴

However, the Constitution from 2006 clearly guarantees the local (self)government the right to property and free management of property and the legal solutions will also have to follow that. Certainly, the future regulation should, in addition to property rights, return to the municipalities the property withdrawn by the Law on Properties of the Republic of Serbia. Otherwise, the reform effect would not be achieved. It would have been better if the new Constitution had already predicted the return of the deprived properties to municipalities in order to prevent manipulation of this issue.

Waiting for fiscal decentralization

During 2005, with the active participation of the Ministry of Finance, the Ministry of Education, the SCTM and the representatives of the local authorities, international foundations and foreign and domestic experts, the Bill on Financing Local Self Government was prepared. The Law on Financing Local Self Government was adopted in July 2006.⁶⁵ Its prompt and full implementation is of crucial importance for efficient governance at local level and the efficient implementation of local policies.

The Law provides the local authorities with greater financial autonomy because it ensures sources of income, the right to establish the rates for certain taxes and to collect those taxes independently. On the other side, the law objectifies and introduces important standards of rectitude in the division of the system of state taxes as the second source of income for local budgets, because it precisely regulates the level of resources from the Fund for Equalizing and the criteria for the distribution of those resources. In this way politicisation and voluntarism in the distribution of resources are restricted, the essential financial dependence of local authorities from the central authority is revoked and the possibility is opened up for local authorities to finance the realization of transferred competences which is one of the important standards which the European Union supports.

⁶⁴ See page 107 Strategies

⁶⁵ *Official Gazette of the Republic of Serbia*, no. 62/2006

Local authorities in the processes of rapprochement to the EU

European law does not guarantee European practice

In the current system of the territorial organization of the state, municipalities, cities and provinces act as the forms of the decentralization of power. Districts in Serbia currently represent the system of the de-concentration of power, since they operate as the Government of Serbia's branches. The system of hierarchy and exaggerated centralization still dominates while the introduction of the principles of partnership and the transfer of competences to the levels of those authorities closer to citizens are, for the time being, being delayed. The structure of the local authorities is monotype and is regulated by the Law on Territorial Organization, which did not undergo any significant changes after 2000. Therefore the current situation is still the consequence of the 1990's, i.e. the decade of the long centralistic system and its modernization is yet to occur.

The current territorial organization of Serbia does not facilitate the establishment of several different levels of the decentralization of power, the establishment of functional regions capable of horizontal interregional links or the implementation of European regional policies. It is completely clear that in certain municipalities there are no capacities for the creation and implementation of those policies, nor are the municipalities in Serbia equal partners to modern European regions.

The Bill on the *City of Belgrade*, i.e. the *capital city*, has been waiting for several years, and should have been adopted six months after the adoption of the Law on Local (Self)Government. The justified ambition of such a law is to grant Belgrade the status of a metropolitan region including the necessary circle of competences, organizational capacities and financial autonomy, is currently in the preparation phase. The organization of Belgrade as a metropolitan region would stimulate the regionalization process in Serbia as the important connecting factor with European regional processes.

Municipality, as the basic level of the organization of the local authority, is rather large (the biggest in Europe) and has an average of 50,000 citizens. All municipalities, regardless of size, have a similar organizational structure (monotype) and mostly consist of a bigger urban city as the centre and several smaller places (mostly rural).

City, as the unit of local self-government, does not differ much, in terms of status and competences, from a municipality. In Serbia there are only four units of local self-government with the status of city (Belgrade, Novi Sad, Nis and Kragujevac), even though there is a large number of urban towns which could be granted this status (40 towns have over 50,000 citizens and 50 towns have over 40,000 citizens)

What does the new model of local authority organization offer?

The key legal and normative framework which regulates the work of local bodies consists of the Law on Local Self-Government and the local self-government units' statutes, adopted in accordance with this law. The Law on Local Self-government introduced numerous improvements in the local self-government system as well as numerous new institutions. Since it is, to a considerable extent, harmonized with the European Charter on Local Self-Government, the Law on Local Self-Government established the new organization of authorities at local level with the municipality assembly, the directly elected president of the municipality who is the holder of the executive power and the municipality's council, who are the main bodies. In addition, for the first time in Serbia, the law introduces the institutions of the Ombudsman, the municipal/city manager and the main architect.

Instead of the previous system of power unity, the division of power into representative and executive (the system of mutual control and balance) as well as a chain of new institutions were also introduced. The main intention of the proposer of change was to increase the efficiency and effectiveness of the system by strengthening executive power (a larger circle of competencies and numerous instruments for the efficient and quality implementation of the policy adopted by the assembly). The Bill on Local Self Government has foreseen that the president of the municipality himself/herself would create the team of professionals for certain fields (municipal councils) with whom he/she would cooperate, which would in turn strengthen professionalism and the entire quality of work. The changes made in the drafting of the final version of the law, this system in fact, was interrupted. All important functions in the executive power at local level (creating the budget, the appointment of experts and the management of the professional expert service) were divided between the president of the municipality, the municipal council and the head of the municipal administration. Thus, the space was created, for instance, for the crucial role in the establishment of the council to be taken over by political factors, which in practice created numerous problems and exerted considerable influence on the professionalism, efficiency and effectiveness of the work of the local administrative bodies.

It must be said that in one segment the Law on Local (Self)Government is not harmonized with the new Constitution. As we previously mentioned, in the 4th paragraph of article 191 the Serbian Constitution states that the municipal assembly decides on the election of the municipal executive bodies, which is not the case in the current Law. Even though the positive effects of the direct election of the president of the municipality clearly prevail over the negative sides of such a system (difficulties in the functioning of the local (self)government when the president of the municipality and the majority in the assembly come from different political options), the creators of the Constitution have chosen the return to the indirectly elected executive power in municipalities. Such a development is the result of "political trade" rather than a decision made after an analysis of the effects of the new system of local (self)government. However, it is necessary to harmonize the Law on Local (Self)Government with the Constitution, and then to organize local elections. It is needed to approach the amendments to the Law systematically and to consider the positive results achieved by the implementation of the Law, and to neutralize the negative effects, analyzed in this paper.

Numerous problems also emerged in the functioning of the completely new institutions in our system; the Ombudsman, the municipal manager and the main architect. The establishment of those institutions, in contrast to the assembly, the President of the municipality and the Municipal Council, is not obligatory, thus municipalities and cities can autonomously decide where or not they are going to introduce them. If they decide to do so, their position and competences need to be regulated more closely by statutes and other general acts

The *Ombudsman* protects the collective and individual rights and interests of citizens by carrying out the general control of the work of the administration and public services. A certain number of municipalities (only a dozen), and since recently the City of Belgrade, have appointed the Ombudsman, but the time distance is insufficient for the appraisal of the quality and effects of its work. In autumn 2005, the National Parliament of the Republic of Serbia adopted the Law on the Ombudsman. What is still obvious is that financial independence is not provided for the local Ombudsman, nor is the Ombudsman connected to the functional system.

Municipal manager designs projects which stimulate local economic development and enterprising. The Manager's job is to attract investments, the creation and realization of private-public partnerships and the initiation of the changes and amendments to the regulations which impede the realization of business initiatives. In Serbia, the work of the manager is restricted to economic development while the part regarding the creation and management of the administration is still kept beyond their reach. One of the next steps in the reform could be the appointment of managers to the position of the current head of the municipal administration which is the case in a large number of modern systems in the world. In the forthcoming period, the training of managers should be provided, because this is primarily a professional position.

The job of the *Main architect* (the Main urban designer) is struggle for quality urban space, resolving the problem of unlicensed parceling and construction, including citizens in making decisions in this exceptionally sensitive field which is, as a rule, accompanied by closed circles of decision making and corruption. In Serbia there is still no practice of monitoring the quality and methods of work of this, but also other, institutions. Non governmental organizations or SCTM periodically, as part of certain programs, make analyses of some aspects of work, but it is of professional interest to these institutions, and of developmental interest to society, that the their working methods, challenges, problems and methods of resolving them are constantly monitored, and to stimulate the exchange of experiences as well as correcting and improving the system.

The job of the city manager, and partially, the city architect, is of importance in the evaluation of the capacity for the further success of cross-border cooperation.

The municipalities in Serbia used to have developed cooperation with the municipalities in other Yugoslav republics and, thanks to the openness of Yugoslavia, with municipalities around Europe. The disintegration of Yugoslavia and the subsequent wars broke those connections, and Serbia, its local authorities and citizens were isolated for almost 10 years. After 2000, the local authorities in Serbia started to renew the old and establish new forms of cooperation and that has become an important channel for better informing and the exchange of experiences with local self-governments in Europe and for the development of the feeling of belonging to Europe. This is a very important way of healing and the democratization of the society and an important stimulus for economic development.

The local authorities actively participate in the development of various forms of cooperation (various bilateral and multilateral projects, fraternizing, neighboring and cross border cooperation programs etc.).

Cross-border cooperation projects have made a great contribution everywhere in Europe to the revitalization of relations between nations which live next to the border, quality solutions to the problems of nations from both sides of the border and a significant contribution to the reconstruction and revitalization of Serbia's cross border cooperation with neighboring countries. All countries from this region have highlighted one set of priorities such as: the stimulus of the local democracy and cross border cooperation, the renewal and strengthening of the regional infrastructure, energetic, the stimulation of inter-regional trade and investment policy, the strengthening of the media, the fight against organized crime, the monitoring of migration, asylum seekers, refugees etc.

In addition to the Serbian Ministry of Foreign Affairs and the Ministry of International Economic Relations, which have an important role in those processes, the SCTM also assists the local authorities in strengthening and stimulating the program of neighboring and cross border cooperation. The SCTM helps the local authorities to find appropriate partners by providing the necessary information, facilitating the following of the procedure on the establishment of cooperation and providing the various kinds of support in the realization of those, often very complex, projects.

After 2000, a number of cross-border projects were established such as the Region of Timok, which established cooperation with a number of municipalities from Serbia, Bulgaria and Romania (2001) for the revitalization of those bordering regions. The establishment of the new euro-region could be the cooperation between over 100 municipalities on the Nis, Skopje and Sofia axis (2003) which set in motion various projects from those municipalities and cities in the fields of economy, trade, education, culture etc. The cross-border cooperation projects such as Danube-Kriš-Mureš-Tisa, Dunav 21 and Drina-Sava-Majevica are also interesting as are numerous other cross border cooperation projects between municipalities from Serbia and Croatia, Bosnia and Herzegovina, Hungary, Romania and Bulgaria. In this case the context of cooperation covers a palette of various fields and it always concerns the priority interests and needs of the citizens of these regions.

Successful participation in European programs considers qualified staff, knowledge of European policies and initiatives, knowledge of the methodology and implementation of European projects as well as developed relations with other local regions in Europe. Previous activities are encouraging (primarily the EXCHANGE project) but the local authorities in Serbia still have a long way to go.

The increase of capacities for cross-border cooperation is of exceptional importance, because this cooperation will facilitate a higher level of Europeanization and integration into the European horizontal networks of cooperation even before the final formalization of the relationship between Serbia and the EU. In addition, 31.9 million euros have been earmarked from the EU pre-accession funds for Serbia for the period 2007 – 2009.

The participation of citizens is an indicator of Europeanization

The participation of citizens in the process of reaching decisions in municipalities and cities is very low and is not sufficiently stimulated. Citizens are marginalized and their direct influence on the authorities is minor. Although the laws and general acts predict mechanisms for the influence of citizens on the decision making process through initiatives, referendums and citizens assemblies, they are very rarely used in practice. The reasons can partially be found in the fact that those forms, apart from the referendum whose organization is rather complicated, only have an advisory nature. In addition, the municipal officials and municipal administration do not have a developed strategy to increase and improve the quality of citizens' participations (better information, constant control of the quality of services and proposals and citizens' initiatives) as well as the supposition of more qualitative work and management.

A large number of the international projects which have been realized since 2000 insist that the basis for project design is the needs analysis of citizens and a narrow group of consumers. The greater participation of citizens strengthens the democratic legitimacy of decisions, strengthens the pro-European consensus and contributes, through cross border cooperation, to the access of the civil sector to European civil networks and social platforms. No single authority will easily give up its rights to decision making. It is the task of the civil sector, particularly NGOs, to fight for such a position for citizens in the administration at local level.

Efficiency demands more knowledge and competences

All characteristics which relate to the development of the knowledge and skills of civil servants refer to the staff in the local self-government. The recruitment, the entire way of operating (archaic, automatic, lacking in creativity and motivation), professional advancement (relatively weak mobility), dismissals from work etc. are elements of the old fashioned system in which political suitability is a very important factor while professional criteria are not of crucial importance. Salaries in the public sector are generally low, there is no bonus system, nor is there any risk of losing one's job because of inactivity.

For the successful realization of jobs and the qualitative, efficient and creative implementation of those legal solutions it is necessary to pay much more attention to the training and preparation of the local authorities and competent experts for various jobs and acquiring new skills.

The Standing Conference of Towns and Municipalities

The Standing Conference of Towns and Municipalities has been in existence since 1953 and represents the national association of local authorities. During the period 1990 to 2000 the majority of its activities faded away because of the international isolation, but after 2000 the association renewed its work and grew into a prominent association representing all the local authorities in Serbia.

Since 2000 this institution has experienced detailed reform and has succeeded, in many areas, in establishing itself as the support to the local authorities in the renewal of their functions. Since 2000 the SCTM has significantly reformed and improved its organization, increased its functional capacities and modernized its way of operation, which has in turn facilitated its ability to carry out the various and complex tasks involved in the successful association of local authorities.

The SCTM assists the local authorities in analyzing the quality of their work, in identifying problems and in finding the optimal solutions for those problems. The association offers active support to the local authorities in building capacities for the achievement of their functions, urges and nurtures cooperation, dialogue, the exchange of experiences of the local authorities as well as their joint acting. The SCTM is an important advisory centre for local authorities, providing them with training and compiling studies and analyses in order to improve the quality of the work of the local authorities.

One of the important functions of this association is to represent the interests of the local self-governments before the central authority bodies in the processes of the adoption of laws of significance to them. This association has also drafted numerous amendments of bills and several bills or amendments to current laws including the Law on Local Self-Government, the Model of Municipal Statutes, The Local Officials Code of Ethics, the Bill on the Property Owned by Local Self-Governments, the Law on Local Finances etc. were prepared with its support.

With the support of foreign donators the SCTM⁶⁶ established the *Advisory Centre* for the local authorities. They designed a questionnaire on the problems and needs which the representatives of around 100 local self-governments completed emphasizing their need for help in the following fields: the implementation of laws, the improved quality of communal services, access to funds and financial management.

⁶⁶ The governments of France, Switzerland and GTZ.

The association provides various research, advisory and training services for the local authorities. During 2004, with the help of donors⁶⁷, it financed the establishment of the *Training Center*. The Center developed the national strategy for training local authorities in accordance with the European Council's methodology. In two years the Center's capacities have significantly increased including the network of instructors who participate in the training. The SCTM has actively participated in the realization of various projects which have made a significant contribution to the reform of the system and the increase of the local authorities' capacities.⁶⁸

⁶⁷ UNDP, SIDA.

⁶⁸ They include: the Social Policy Reform Project (DFID), the support to municipalities from Eastern Serbia and stimulating economic development (the establishment of the Coordinating Committee for Small and Medium Sized Enterprises of Eastern Serbia and the Swiss Association of Small and Medium Sized Enterprises), the Environmental Protection Project (Norway) which culminated in the compilation of the National Strategy of Sustainable Development at Local Level (the publication of Local Agenda 21), the Modernisation of Municipal Services Project (GTZ) which among other things compiled a data base for expertise in the fields of the water supply, the sewerage system and refuse collection, the Support to Local Assemblies Project (OSCE) which included the organisation of wide scale training programs for the deputies in the municipal assemblies, and finally the compilation of the manual for the deputies in the municipal assemblies etc.

RECOMMENDATIONS

► Since the new Constitution has accepted the recommendation to ensure the guarantee of the local (self)government and the property of local (self)government, it is necessary as soon as possible to return previously deprived property to the municipalities. The Constitution offers a slightly clearer framework for the more solid founding of decentralization taking into consideration the economic, political and administrative dimensions. However, it missed the opportunity to open up the possibility for gradual decentralization which would enable the selection of the most functional forms of decentralization for the creation and implementation of European policies and to grant the levels of authorities lower than the central one the right to freely establish relationships with other regions in Europe.

► The new law needs to regulate the territorial organization of the state so as to ensure that the possible forms of decentralization, primarily that of municipalities, cities and regions, are precisely regulated.

► It is essential for the National Parliament and the Government to ensure the full transfer of tasks affairs from the state bodies to the local ones in all fields in which European local authorities have authentic competences (and which are guaranteed by the Law on Local Self-governments in Serbia) through the adoption of section laws (primary education, primary health care, social services, stimulating local economic development, granting concessions, communal services, urbanism and construction, child care, sport, recreation, culture, information, environmental protection etc.).

► The urgent adoption of the Law on Property Owned by Local Self-Government is required, which would provide the local self-government with the necessary instruments for the successful realization of their competences and work, introduce order through the establishment of public property registers, oblige public competition in property sales, strengthen the responsibility in property management and introduce detailed budget control. Apart from that, it is also necessary to grant the local self-government greater financial autonomy through the introduction of serious sources of income, the rights to establish the rates of certain taxes independently and the rights to collect those taxes independently. The competent ministry should consistently continue the realization of the project of putting the cadastre in order which would introduce order into this seriously neglected field, without which there will be no serious development. That demands the urgent adoption of the Law on Cadastre.

► The amendments to the Law on Concessions must be adopted with the aim of enabling the local authorities to grant concessions independently. The increase of the local authorities' capacities to monitor the quality of the realization of those tasks, with full respect for professional and expert standards and laws, is of great importance.

► The further strengthening of the institutions of the municipal manager and the main architect is a must, both through the education system for such demanding professions and the constant monitoring of their work, the exchange of experiences, identifying problems and training. Cooperation between the local authorities, the SCTM, faculties, NGOs and experts is important in this field.

► The SCTM, but also the numerous NGOs, should assist in the design of training and education aimed at including citizens in the decision making processes and processes of offering services including the increase of the level of citizens' influence on the final form and quality of those services.

► The SCTM should direct its plans and activities towards the strengthening of the capacities of local authorities for all forms of international cooperation as an important segment in bringing Serbia closer to the European Union.

► It is necessary to continue to increase the SCTM's capacities for the further affirmation of local authorities and the successful carrying out of the various and complex duties of the association of local self-governments. The Government and the competent ministries should, in the forthcoming period, ensure that the municipalities receive quality services (information, expert support regarding the projects and access to donor programs and funds, primarily to the pre-accession – IPA funds, which will be operative from January 2007, training and advice, etc). All of the available capacities of the civil society and its experts should be used towards achieving that aim.

The Constitution of the Republic of Serbia. The Serbian Constitution from 1990 defines the municipality as territorial unit in which local authority is exercised, whereas the territorial organization of the state is regulated by the law. Apart from that, the Constitution lists the areas of local self-government competences that the municipality should exercise according to the law:

1. it passes the development programs, town-planning programs, budget and balance sheet;
2. it regulates and provides for communal services and their development;
3. it regulates and provides for the city building plots and business space;
4. it takes care of building, maintenance and exploiting of local roads, streets and other public facilities of communal interest;
5. it provides for certain citizen needs such as: culture, education, health and social welfare, social care for children, physical education, recreation and health; public media, arts, tourism and public entertainment, environmental issues and other areas of immediate importance to the public;
6. carries out legal and other regulations of the Republic of Serbia in municipal competences; it provides for the implementation of municipal regulations;
7. it forms and regulates municipal organizations and services;
8. it sees to the implementation of other services defined by the Constitution, law and the municipal statute.

The Constitution provides that the Republic may delegate certain jobs and services to the municipalities.

For the implementation of jobs and services defined by the Constitution and the law, the municipalities are entitled to law-regulated income; funds can also be raised by means of direct contribution by the citizens, provided the citizens have given immediate consent.

The supreme legal act adopted by the municipality is the statute, which regulates the municipal jobs, as well as its organization and functioning and other issues relevant for the municipality. The statute is passed by the municipal assembly consisting of chosen representatives, which is the only organ of local self-government mentioned by the Constitution. The municipal assembly consists of members elected by direct vote. Citizens directly participate in the municipal activities and jobs, either through their elected representatives or by means of referendum.

The Constitution also provides for the possibility to reorganize the municipality as town, which can consist of two or more town municipalities. Organization and functioning of the city municipality is regulated by the town statute.

The Constitution of the Republic of Serbia from 2006 goes a step further than the previous constitution and ensures the rights to local (self)government, which was not the case with the former one. Apart from this guarantee, the new Constitution also guarantees the right to the local (self)government's property, which is of exceptional importance for the local (self)government. However, the Constitution omitted to ensure the return of the property deprived from municipalities in 1995, by which the future solution on the status of property deprived from the local (self)government was left to the legislator, which leaves room for arbitrary decisions. Other solutions and competences of the local (self)government from the new Constitution are similar to the solutions from the previous one:

The municipality, through its bodies, in accordance with the law:

1. regulates and provides for communal services and their development;
2. regulates and provides for the city building plots and business space;

3. manages the construction, maintenance and exploitation of local roads, streets and other public facilities of communal interest; regulates and provides local transport;
4. provides for certain citizens' needs such as: culture, education, health and social welfare, social care for children, physical education and sports;
5. provides for the development and improvement of tourism, handicrafts and trade;
6. provides for environmental protection, protection from the elements and natural disasters; protects cultural property of significance to the municipality;
7. protects the development and use of agricultural land
8. sees to the implementation of other services defined by the law.

The Constitution predicts that the municipality independently, in accordance with the law, adopts its budget and balance sheet, the town-planning and development programs, establishes the symbol of the municipality and its use, provides for the fulfillment, protection and improvement of human and minority rights and public information in the municipality, independently manages the municipality's properties in accordance with the law and regulates misdemeanors for the violation of municipal regulations also in accordance with the valid laws.

Local Self-government Act. To a high degree, this Act conforms with the principles of the European Charter of Local Self-government adopted by the Council of Europe in 1985. Since those principles have been adopted by all member states of the European Union, their full application in Serbia would secure undisturbed functioning of local self-government during the association process and subsequent joining in the Union.

Local Self-government Units. The Local Self-government Act establishes that local self-government in Serbia is implemented on the municipal and town levels, as well as in the City of Belgrade. However, the organization and competences of all three units of local self-government are identical, the only difference being that the town, according to its statute, can organize two or more town municipalities on its territory. Although the Article 24 of the Local Self-Government Act states that the City of Belgrade status is regulated by a separate law, such a law has not been passed yet, and therefore the provisions of the Local Self-Government Act are binding for the City of Belgrade *in toto*. There are 169 units of local self-government in Serbia, four of which are towns (Belgrade, Novi Sad, Niš, Kragujevac).

Local Self-government Competences. The original list of self-government competences in Serbia was significantly enlarged by law in 2002, in order to meet the requirement of decentralized government. The list entails the following:

1. creating development programs
2. town- planning
3. budget and balance sheet
4. regulating and providing for the functioning and development of communal services (purification and distribution of drinking water, steam and hot water, public transport, town hygiene, maintenance of city-dumps, building and maintenance of green markets, parks, green areas, recreation and other public areas, public parking lots, lighting, building and maintenance of cemeteries, funerals, etc), as well as providing the organizational and other conditions for communal services functioning;
5. maintaining buildings, providing for their safe exploitation, deciding on the maintenance costs;
6. implementing the legal procedure of dislodging illegal tenants from apartments and common spaces in buildings;

7. planning and preparation of building plots, regulating and providing services concerning preparation and exploitation of building plots, deciding on preparation and exploitation costs;
8. regulating and providing exploitation of business space, management of business space, deciding on business space cost and control of business space exploitation;
9. taking care of environmental issues, creating programs for exploitation and protection of natural wealth as well as environment protection programs, local action and repair plans in accordance with strategic documents and interests, deciding on special taxes for environmental protection and development;
10. regulating and providing for building, reconstruction, renovation, maintenance, protection, exploitation, development and management of local and uncategorized roads and streets;
11. regulating and providing for special conditions and organization of taxi services;
12. regulating and providing for river-traffic services on the municipal territory, and designates parts of river-banks and water area to accommodate facilities and vessels;
13. establishing of emergency goods supplies and deciding on their quantity and structure, authorized by the relevant ministry, for the purposes of meeting the needs of local population;
14. establishing institutions and organizations in the fields of elementary education, culture, primary health care, physical education and sports, children and social welfare and tourism, as well as coordinating and providing for their functioning;
15. organizing relevant activities in the field of cultural heritage protection, supporting development of amateur activity in culture and arts, and providing conditions for the functioning of museums and libraries founded by the municipality;
16. organizing protection from natural elements and other major accidents, as well as protection from fire and creating conditions for prevention and/or amelioration of possible consequences;
17. deciding on measures for protection, exploitation and preparation of soil, taking care of their implementation, identifying erosive areas, deciding on pasture-land exploitation and purpose;
18. regulating and deciding on exploitation of water-springs, public wells and fountains, prescribing conditions for water-works, issuing licenses for water-works of local significance;
19. taking care and protecting natural spa areas,
20. supporting and taking care of tourism development on its territory and deciding on tourist resident fees;
21. supporting and taking care of arts, crafts and small trade, regulating working hours, deciding on designated areas for such activities and other necessary conditions;
22. using public funds and taking care of their development and enlargement;
23. regulating and organizing jobs concerning keeping and protecting domestic and exotic animals;
24. organizing jobs concerning legal protection of its rights and interests;
25. forming municipal organizations and services and regulates their functioning;
26. supporting development of cooperatives;
27. organizing legal aid services for citizens, if needed;
28. taking care of protecting personal and collective rights of national minorities and ethnic groups;
29. recognizing official languages and scripts of national minorities living on the municipal territory;
30. providing for public media of local importance;
31. identifying instances of violation of municipal regulations;
32. forming of inspection services and control of regulation implementation within municipal competences;
33. regulating organization and functioning of reconciliation councils;

34. regulating and providing for the use of name, coat of arms and other municipal insignia;
35. providing for other services of immediate importance for citizens, in accordance with the Constitution, law and statute.

Apart from the above listed authorities, the Republic or Province may pass onto the local self-government certain authorities from their own competences. In that case, the Republic or Province is obliged to transfer funds to the local self-government to provide for exercising such competences.

Local Self-Government Institutions

The Local Self-Government Act identifies the following municipal institutions: *Municipal Assembly*, *President of Municipality* and *Municipal Council*. Apart from those, a municipality also has the municipal administration. The law also provides for establishing optional bodies and institutions, such as: *Ombudsman*, *Municipal Manager*, *Chief Architect*, *Interethnic relations council*, *Council for development and protection of local self-government*. The organizational structure and competences of institutions within the units of local self-government at the town level are identical with those at the municipal level, but some institutions are referred to differently, such as: *City Assembly*, *Mayor* and *City Council*. There are also *City administration* and *City manager*. Other bodies and institutions bear the same names as those at the municipal level.

Municipal/City Assembly

Structure. The Municipal/City Assembly is a body of representatives that performs basic functions of local self-government, determined by the Constitution, law and statute. The assembly consists of representatives whose number may vary between 19 and 75, or up to 90 representatives at the city level. The representatives are elected by secret voting in direct elections and for the mandate of four years. The Local Elections Law prescribes that representatives be elected from party lists according to the proportional system, and that the municipality/town represents a unique electoral unit.

Representative status. The representative immunity is much narrower than the immunity of Parliament members. The representatives cannot be persecuted, confined or punished for stating their own opinion or vote at the assembly meeting.

Officials. The Assembly elects the President and Vice-president by majority of all votes. The President organizes the work of the municipal/city assembly, calls and presides over its sessions and does other jobs determined by the law and the municipal/city statute. The vice-president fills in for the president in case of absence or inability or may be authorized to do so.

Administration. All administration concerning assembly sessions and functioning of its working bodies is done by the assembly secretary. The secretary is appointed upon the president's recommendation, for a period of 4 years. The secretary must have a diploma in law, the state license to work in administration and at least three years of experience.

Bodies of the assembly. The assembly forms temporary or permanent bodies to deal with issues within its competences. Other details concerning establishment, operating and competences of those bodies are regulated by the municipal/city statute.

Sessions. The assembly sessions are held as needed, but at least once in three months. If the assembly fails to meet for longer than three months, it may be disbanded.

Competences. It is within the municipal assembly's competences to:

1. pass the municipal statute and working protocol
2. pass the municipal budget and balance sheet
3. adopt the development program for the municipality and for its individual sectors
4. pass the town-planning program and regulate exploitation of building plots
5. pass regulations and other rules
6. call for municipal referendum or referendum in a part of municipal territory, discuss issues initiated by citizens, and propose decisions on self-financing;
7. found services, communal public companies, institutions and organizations listed in the municipal statute and to control their work;
8. appoint and depose administrative and supervising boards, to appoint and depose directors of communal public companies, institutions, organizations and services whose founder it is and to confirm their statutes, in accordance with law;
9. elects the President of the Assembly and the deputy president and elects the Municipal Council upon the President's proposal;
10. appoint and depose the Assembly Secretary;
11. appoint and depose the head/heads of the municipal administration, upon the the President's proposal;
12. decide on municipal taxes and other local sources of income to which it is entitled by law;
13. decide on the taxes for exploitation of building plots;
14. pass the act on municipal public debt;
15. determines working hours for small businesses;
16. provide opinion on the republic, province and regional space plans;
17. provide opinion on the laws regulating issues of interest to the local self-government;
18. initiate procedure for the protection of local self-government rights before the Constitutional Court ;
19. confirm the use of name, coat of arms and other municipal insignia;
20. execute other jobs determined by the statute and the law.

Decision making. The municipal/city assembly passes decisions if the majority of representatives is present, and the decisions are passed by the majority of votes of those present. Exceptionally, the assembly passes decisions by the majority of votes of all members of the assembly in the following cases: when the statute is being adopted, when the president and deputy president are being elected or recalled, and when the members of the municipal council are being elected. The same majority of votes is required when the territories of local communities are defined or changed.

Disbanding the municipal/city assembly. Drawing upon extensive experience from the past, when the Government often enforced administration (temporary measures that in some cases lasted up to several years), the Local Self-Government Act clearly lists situations when the municipal/city assembly may be dismissed: if the assembly fails to meet for longer than three months; if it fails to pass the statute or budget within deadlines determined by the law and in case the referendum does not recall the president of the municipality/mayor if the proposal for recall was put forward by the municipal assembly. In case of any of the above mentioned situations, and if the Government adjourns the municipal /city assembly, the president of the Parliament is obliged to call the elections within three months, except when regular elections are due within less than six months.

Incompatibility of functions. The Local Self-Government Act prescribes incompatibility of representative and municipal/city administrative functions. If an administrative employee gets elected for the representative function, his/her rights and obligations drawn from employment status remain inactive during the representative mandate. Also, representatives cannot be appointed by the municipal/city assembly. In practice, these legal provisions are often violated.

President of municipality/Mayor

The President of municipality /Mayor exercises executive power in the municipality/city. The President of municipality is elected in direct elections, by secret voting, for the mandate of 4 years. The President's competences are as follows:

1. represents the municipality;
2. directly executes and takes care of the execution of decisions and other documents passed by the Municipal Assembly;
3. proposes decisions and other documents passed by the Municipal Assembly, and proposes ways of resolving issues to be decided upon by the Municipal Assembly;
4. takes care of the execution of jobs transferred from the Republic competences, or the competences of other forms of territorial autonomy;
5. guides and coordinates the functioning of the municipal administration;
6. proposes appointment and dismissal of the head/heads of municipal administration;
7. authorizes payments from the budget;
8. issues individual documents upon the authority vested in him/her by the law, statute or the assembly decision;
9. executes other jobs determined by the statute or other municipal documents.

The President of the municipality/Mayor presides over the municipal/city council.

The President of municipality proposes the Deputy President, but cannot appoint him/her without the assembly's consent.

The President of municipality's /Mayor's mandate may terminate before regular duration of mandate expires in case:

1. he/she resigns;
2. he/she gets convicted for a criminal deed and sentenced to imprisonment of at least six months;
3. if the court of law has legally deprived him/her of working ability;
4. if his/her Yugoslav citizenship terminates;

5. if does jobs incompatible with the president of municipality function;
6. if his/her residence in the municipality terminates;
7. in other cases provided for by this law.

The President of municipality may be recalled before his/her mandate terminates. The recall may be proposed by 10% of citizens who will support the proposal by their signatures, or by the majority of representatives in the municipal assembly, or by the Government, if it concludes that the President of municipality does not act in accordance with the law. The proposal is decided upon by the citizens in referendum. In order to recall the President of municipality, it is necessary to obtain majority of votes. In case it does not happen, and recall was proposed by the municipal/city assembly, the assembly is adjourned and elections for assembly representatives are organized. If the president's mandate terminates, his/her deputy's mandate terminates as well, and the president's /mayor's duties are assumed by the Chair of the Municipal Assembly until a new president of municipality is elected.

Municipal/City Council

The introduction of Municipal/City Council into the system of local self-government faced a number of problems. The final result was achieved through a combination of competences and the way of choosing the members. The Municipal Council has up to 11 members and it coordinates the work of the president of municipality/mayor and the assembly. It also controls and supervises administration. The list of council's competences is as follows:

1. proposes the decision on municipal budget;
2. controls the functioning of municipal administration, annuls those documents issued by the municipal administration that are not in accordance with the law, statute or other documents and decisions passed by the municipal assembly;
3. resolves issues in the administrative procedure of second degree , concerning rights and obligations of citizens, companies, institutions and other organizations in the municipality;
4. assists the President of municipality in other jobs within his/her competences.

The members of the Municipal/City Council are proposed by the President of Municipality/mayor and are elected by the Assembly. However, if the President's proposal for one and the same member fails to get support of the Assembly twice, the Assembly may elect the member of the Municipal Council independently. Since it often happens in practice that the President of Municipality /Mayor and the Assembly majority come from different political parties, the election process often gets blocked, or, if the members get elected without the president's proposal, there is no cooperation between the council and the president.

Municipal/City Administration

The municipal and city administration executes administrative functions within the original domain of municipal and city competences, rights and obligations. Apart from that, the municipal administration executes laws and other regulations within its competences.

The administration therefore, has the following competences:

1. prepares drafts for regulations and other documents passed by the assembly and the president of municipality;
2. executes decisions and other documents of the municipal assembly and the president of municipality;
3. resolves issues in the administrative procedure of first degree, concerning rights and obligations of citizens, companies, institutions and other organizations from the municipality;
4. controls execution of regulations and other documents passed by the municipal assembly;
5. executes laws and other regulations within municipal competences;
6. executes administrative and other jobs determined by the assembly and the president of municipality.

The status of municipal administration is determined by its relations with the Municipal/City Assembly, President of municipality/Mayor and Municipal/City Council. It means that the Assembly regulates the organization of municipal administration, appoints and dismisses the Head of Administration and controls its operating. The President of municipality guides and coordinates the functioning of municipal administration. The Municipal /City Council has a controlling and supervising function, and resolves issues in the administrative procedure in second instance.

In terms of organization, the municipal council is formed as integral service, although it is possible to form municipal administrations for specific domains. However, that is done only in municipalities with population of more than 50,000.

Closer regulation of administrative organization is done by means of decisions passed by the assembly upon the president's proposal.

Closer regulation of administration and distribution of jobs within smaller organizational units is done by means of Rules passed by the head of administration and confirmed by the president of municipality. The Rules also regulate the number of posts and requirements for specific jobs. Although this is the last in the hierarchy of documents, it is clear that the quality of municipal/city administration depends largely on the quality of this document.

The municipal administration is managed by the Head of Administration; the requirements for this post are: BA in Law, license to work in state administration and at least five years of experience.

In order to ensure better and more economical exercising of rights, obligations and legal interests for the population in rural areas that are distant from the municipality seat, local (branch) offices are formed. In fact, their existence overgrows the significance of the actual jobs they do, since they are the most exposed offices of authorities.

Optional bodies

Chief Architect (and other chief experts in specific fields). Not all municipal/city statutes provide for the appointment of chief architect. However, that does not mean that other municipalities cannot pass decisions on reorganization of administrative functions and provide for such appointments without changing their statutes.

The competences of Chief Architect are: to initiate design of documents in town-planning, as well to initiate revision of existing documents; to give instructions concerning architectural projects in order to ensure protection of architec-

tural heritage and values and preservation of certain buildings and city parts; to cooperate with the institutions that deal with protection and preservation of cultural and natural values; to provide opinion on architectural projects of great significance for the community and to execute other jobs determined by the document on the organization of municipal administration.

The Chief Architect is appointed by the President of Municipality.

Other chief specialist may also be appointed into the municipal administration, in accordance with the law (primary health care, environmental issues, agriculture, etc.).

Municipal/city Manager. Unlike the post of Chief Architect, the post of Municipal/city Manager is determined by the municipal statute. That has been done in 8 municipalities only⁶⁹. The Manager is engaged through contract, signed by the President on behalf of the municipality.

The Local Self-Government Act provides for the following competences of the Municipal Manager: to propose projects to promote economic development and fulfill the citizen's needs; to propose projects to ensure protection of the environment; to initiate and support entrepreneurial activities and support partnerships between the private and public sectors; to support and coordinate investments, to attract foreign investment; to initiate revision of existing rules regulations that impede business initiative.

The small number of appointed municipal managers is probably due to the fact that it is necessary to resolve property issues in municipalities first and to clearly define the role of municipalities in economic development.

Interethnic Relations Council. The Local Self-Government Act determines the obligation of multiethnic municipalities, (i.e. those in which one ethnic community amounts to 5% of total population or all ethnic communities amount to 10% according to the last census in the Republic of Serbia) to establish Interethnic Relations Councils. Those ethnic communities whose members present more than 1% of municipal population are entitled to be represented in the Council.

The Council considers issues related to exercising, protecting and promoting national equality in accordance with the law and statute; the council informs the municipal assembly of its conclusions and proposals; the Municipal Assembly is obliged to put them on the agenda for the first following session, within 30 days at latest. Also, the Municipal Assembly is obliged to acquire opinion of the Interethnic Relations Council on all its decisions concerning national and ethnic communities before the Assembly passes them.

The Interethnic Relations council is entitled to initiate legal procedure before the Constitutional Court to challenge the legality of decisions or other documents passed by the Assembly if the Council believes that national and ethnic rights of those communities represented in the council are violated by those documents. The Council is also entitled, under the same conditions, to initiate the procedure before the Administrative Court to check if a decision or other document passed by the assembly is in accordance with the statute. The organization, structure and competences of the council are regulated by an assembly decision in accordance with the statute.

Ombudsman. The Local Self-Government Act provides for the institution of Ombudsman in the municipality /city. In order to introduce this institution, it is necessary to make statutory provision for it, which has been done in 33 municipal statutes up to now.⁷⁰

⁶⁹ Bogoljub Milosavljević: "The System of Local Self-government in Serbia", SCTM, Belgrade 2005, p. 103.

⁷⁰ Bogoljub Milosavljević, Ibid. p. 107.

The Ombudsman protects individual and collective rights and interests of citizens by controlling the functioning of administration and services. Upon noticing irregularities or illegal functioning, the ombudsman warns the administration and public services, issues recommendations and criticisms and notifies the Municipal/City Assembly and the public.

The municipal/city administration have obligation to provide the Ombudsman with relevant data at his/her request.

The Ombudsman is appointed by the Municipal Assembly and is usually a respected, politically impartial personality. The actual appointment is regulated by the statute and other municipal documents. The statute and other documents also regulate the competences and authorities, the ways of operating, election and termination of mandate.

Council for development and protection of local self-government. Unlike the other optional bodies and institutions, this Council has been provided for in 92 municipal and city statutes.⁷¹

The Local Self-government Act states that the Council's purpose is to exercise democratic influence upon citizens to keep promoting local self-government. For that reason, the members of the Council are always the citizens and specialists from those fields that are significant for local self-government.

The Council is entitled to submit proposals to the municipal /city assembly related to promoting local self-government and those rights and obligations of the municipality stated by the Constitution and the law. The municipal/city institutions, the municipal/city administration and public services are obliged to take those proposals into consideration. The competences of the Council have been defined in very broad terms, so its real role, controlling activities included, will depend largely on the ability of its members and on the readiness of the Assembly and other bodies to consider the Council's proposals.

The organization, structure and competences of the Council are regulated by the statute, as is the way of operating and electing the members.

Standing Conference of Towns and Municipalities operates relying on its democratically elected bodies. The most important SCTM bodies are: the assembly as the supreme body, the presidency and the president as executive bodies, the board that controls the functioning of the conference and finances and the Secretary General that represents the Conference as legal entity. The bodies of the Conference are elected every two years, following a defined procedure. The Conference communicates with its members on daily basis and supports active participation of all members in the functioning of all Conference bodies.

⁷¹ Ibid. p. 109.

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